

TEXAS DEPARTMENT OF CRIMINAL JUSTICE
PD-22 (rev. 13), “GENERAL RULES OF CONDUCT AND DISCIPLINARY ACTION
GUIDELINES FOR EMPLOYEES”
SEPTEMBER 1, 2014
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TEXAS DEPARTMENT
OF
CRIMINAL JUSTICE

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January 1, 2009

EXECUTIVE DIRECTIVE

SUBJECT: GENERAL RULES OF CONDUCT AND DISCIPLINARY ACTION
GUIDELINES FOR EMPLOYEES

AUTHORITY: Tex. Gov't Code §§ 493.007, 500.003, 571.001-.177, 614.023; Tex. Pen.
Code § 38.11; Tex. Fam. Code § 2.401; 18 USC §§ 921(a), 922(g); 28
CFR § 115.13(d); 42 USC § 15607

Reference: American Correctional Association Standards: 4-4063 and 4-
4281-6

APPLICABILITY:

The provisions within this directive are applicable to all Texas Department of Criminal Justice (TDCJ) employees with the exception of the disciplinary process for employees who allegedly commit a PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees" rule violation while attending: (a) the Pre-Service Correctional Training Course or Non-Correctional Officer Training Course at the TDCJ Correctional Institutions Division's Pre-Service Training Academy (PSTA); (b) the TDCJ Parole Division's Parole Officer Entry Level Training Academy (POTA); or (c) the Office of Inspector General Training Academy (OIGTA). When this occurs, the disciplinary process shall be in accordance with PD-33, "Trainee Management."

EMPLOYMENT AT WILL CLAUSE:

These guidelines **do not** constitute an employment contract or a guarantee of continued employment. The TDCJ reserves the right to change the provisions of these guidelines at any time.

Nothing in these guidelines and procedures limits the executive director's authority to establish or revise human resources policy. These guidelines and procedures are adopted to guide the internal operations of the TDCJ and **do not** create any legally enforceable interest or limit the executive director's, deputy executive director's, or division directors' authority to terminate an employee at will.

POLICY:

Employees are representatives of the TDCJ and are expected to adhere to the highest standards of conduct while on-duty or off-duty, including adherence to the rules of conduct described in the Listing of Employee General Rules of Conduct and Disciplinary Violations (Attachment A). Employees who allegedly commit a rule violation shall be subject to disciplinary action in accordance with the procedures within this directive.

The TDCJ promotes equal employment opportunity through an employee disciplinary system designed to impose disciplinary actions without regard to race, color, religion, sex (gender), national origin, age, disability, or genetic information. The TDCJ has zero tolerance for all forms of employment discrimination in the disciplinary process, and harassment or retaliation is prohibited. No employee or other individual shall be subjected to harassment or retaliation for acting as a representative or witness or for reporting employment discrimination in the disciplinary process.

DEFINITIONS:

The following definitions define terms referenced in the Discussion and Procedures Sections of this directive. The Listing of Employee General Rules of Conduct and Disciplinary Violations includes definitions applying solely to the rule violations.

“Administrative Supervision” is the supervision of dual supervised employees by supervisors responsible for ensuring an employee’s adherence to the daily operational and safety guidelines for the unit or department of assignment.

“Demotion” is a change in duty assignment of an employee from one classified position to another classified position in a lower salary group, for example, B15 to A14, or B15 to B14.

“Disciplinary Specialist” is a TDCJ employee, in Employee Relations, Human Resources Division, who coordinates the TDCJ’s disciplinary process.

“Dual Supervised Employee,” for the purpose of this directive, is an employee who holds a position that is customarily departmentally budgeted, assigned to a unit, Correctional Institutions Division (CID) regional director’s office, or the Parole Division, and reports to the department head for technical supervision and to the warden, regional director, or designee for administrative supervision.

“Employee,” for the purpose of this directive, is any person employed by the TDCJ on a full-time, part-time, or temporary basis.

“Equal Employment Opportunity Designated Agency Official” (EEO-DAO) is a TDCJ employee designated by the executive director to: (1) conduct disciplinary hearings for EEO rule violations; (2) represent the TDCJ during dismissal mediation for an EEO dismissal recommendation; (3) respond to grievances regarding EEO disciplines; or (4) approve a dismissal resulting from an EEO dismissal recommendation.

“Equal Employment Opportunity (EEO) Rule Violation” is a violation of one of the following TDCJ Employee General Rules of Conduct, as published and described in the Listing of Employee General Rules of Conduct and Disciplinary Violations: (a) Rule Number 14b, Use of Offensive Words or Actions – Protected Class; (b) Rule Number 21, Discrimination or Harassment Against Persons of a Protected Class or Retaliation; (c) Rule Number 32, Destroying Evidence or Giving False Testimony or Information, when related to an EEO issue; (d) Rule Number 44, Tampering with a Witness, when related to an EEO issue; (e) Rule Number 50, Discourteous Conduct of a Sexual Nature; and (f) Rule Number 53, Failure to Report Alleged Acts of Discrimination or Harassment Against Persons of a Protected Class, Discourteous Conduct of a Sexual Nature, or Retaliation.

“Grievance,” for the purpose of this directive, is a formal written complaint filed by an employee in accordance with PD-30, “Employee Grievance Procedures” and submitted on a PERS 155, Employee Grievance Form, regarding an employment related matter.

“Offenders” are individuals under the supervision or custody of the TDCJ, including TDCJ offenders housed in privately operated, federal, county, or other states’ facilities. These individuals include, but are not limited to, parolees, individuals under mandatory supervision, incarcerated individuals, and individuals housed in county jails that have been sentenced to the TDCJ but are not yet in TDCJ custody.

“Preponderance of Evidence” is evidence of greater weight or more convincing than the evidence which is offered in opposition to it, that is, evidence which as a whole shows that the fact sought to be proven is more probable than not. Preponderance is not determined by the number, but by the greater weight of all credible evidence.

“Reprimanding Authority,” for the purpose of this directive, is a TDCJ official designated to perform certain duties relating to the employee disciplinary process.

“Risk Management Incident Review Board” is a fact finding procedure conducted under the provisions of the TDCJ *Risk Management Program Manual* for the purpose of making a recommendation to the reprimanding authority regarding alleged misconduct.

“Support Documentation” includes all written material and evidence submitted to and used by a reprimanding authority in arriving at the findings in the employee disciplinary process.

“Technical Supervision” is the supervision of dual supervised employees by supervisors responsible for ensuring the employees adhere to technical policies and procedures, and are trained to perform specialized or technical essential functions, such as functions directly related to agriculture, human resources, industry, or maintenance, and for evaluating and monitoring the employee’s performance of such job duties.

“Use of Force (UOF) Fact Finding Inquiry” is a fact finding procedure conducted under the provisions of the TDCJ *Use of Force Plan* for the purpose of making a recommendation to the reprimanding authority regarding alleged misconduct.

“Violation” is an infraction of any rule identified in the Listing of Employee General Rules of Conduct and Disciplinary Violations. A violation may consist of any one, or a combination of, the following:

- a. Engaging in a specific prohibited behavior;
- b. Attempting to engage in a specific prohibited behavior;
- c. Conspiring to engage in a specific prohibited behavior;
- d. Aiding others in conspiring, attempting, or engaging in a specific prohibited behavior; or
- e. Failing to act where required by rule, order, policy, or procedure.

“Violation Level” is a reflection of the degree of seriousness of the violation. For the purpose of this directive, there are four violation levels as set out in the Guidelines for Disciplinary Actions (Attachments B-E).

“Witness” is a person who has first hand knowledge of facts pertinent to an alleged violation(s).

“Work Cycle” is the consecutive seven-, eight-, or nine-day period of time during which the hours worked are computed to determine wage and time compensation.

“Workday,” for the purpose of this directive, is one of the following: (1) for the purpose of providing documents and scheduling employee hearings in accordance with the procedures in this directive, a workday is Monday through Friday, excluding state and national holidays for which TDCJ administrative offices are closed and a day when offices are closed at the direction of the executive director, such as for adverse weather; or (2) for the purpose of suspension without pay, a workday is a day the employee subject to the suspension without pay is regularly scheduled to work.

DISCUSSION:

I. Employee’s Responsibility to Know Rules and Regulations

It is an employee’s responsibility to know the rules set forth in this directive and to seek clarification, if necessary. Not being aware of the existence of any of the rules is not a defense for violations.

No single document can anticipate or address every situation. Therefore, an employee should also be knowledgeable of other current TDCJ directives and standard operating procedures. In the event no written or verbal instructions have been issued regarding a particular subject pertaining to an employee’s responsibilities or duties, the employee is expected to use sound judgment in arriving at a prudent course of action.

II. Corrective Actions Other than Disciplinary Actions

- A. When possible, supervisors are expected to take actions, other than disciplinary actions, to correct an employee's unacceptable behavior before pursuing the guidelines outlined in this directive. Supervisors shall ensure these actions are objective, job-related, and used in a consistent manner. If the corrective action does not result in the necessary change in conduct, the supervisor shall proceed with disciplinary action in accordance with the procedures within this directive.

Receipt of an informal corrective action does not prevent formal disciplinary from being processed after a review of circumstances.

- B. Informal corrective actions may include any one, or a combination of, the following:

1. Supervisory counseling;
2. A PERS 401, TDCJ Employee Performance Log entry in accordance with PD-52, "Performance Evaluations." The PERS 401 is an attachment in PD-52;
3. A letter of instruction identifying:
 - a. The employee's specific inappropriate action and the appropriate action to be taken when a similar situation occurs in the future; or
 - b. The specific on-going area of concern and a specific timeframe to correct the unacceptable conduct, for example, six months.
4. Temporary Reassignment

An appropriate TDCJ official may deem it in the best interest of the TDCJ, or an employee, to temporarily reassign the employee to other duties in order to limit the employee's contact with offenders or other employees, for example, pending the completion of an EEO investigation. The reassignment shall consist of one of the following options in the order listed:

- a. Assigning the employee to work a non-contact position in the unit or department;
- b. Coordinating with the regional or assistant director or higher level of authority to temporarily move the employee to another unit or department; or
- c. Contacting the human resources director for placement assistance.

- C. Documentation relating to supervisory counseling, a PERS 401, or a letter of instruction, shall be filed in a supervisory file in accordance with PD-55, "Human Resources Records and Files." Such documentation shall not be filed in an employee's unit or department human resources file unless a copy of the documentation is later used to support a disciplinary action taken in accordance with the procedures in this directive.

III. Grievance of Disciplinary Action

Disciplinary action may be grieved pursuant to PD-30, "Employee Grievance Procedures." Dismissal recommendations or alleged procedural violations in connection with a dismissal recommendation may only be grieved after a final decision has been rendered by the executive director, deputy executive director, appropriate division director, or an EEO-DAO.

IV. Actions by Other Agencies or Entities

- A. When another agency's or entity's employee works at a unit or department under control of the TDCJ, and the employee's conduct has affected or has the potential to affect the security of an institution, the appropriate warden, department head, or designee is required to consult with the employee's supervisor at the other agency or entity regarding the issue. The offending party may be removed from the unit or department, and the warden or department head may recommend the imposition of disciplinary action with the employee's supervisor at the other agency or entity.
- B. This directive is exclusively TDCJ administrative in nature and does not address civil actions, criminal prosecutions, or administrative actions by other agencies or entities resulting from conduct violating a rule within this directive.

PROCEDURES:

I. Dissemination

This directive shall be published in the TDCJ *Personnel Manual*, which is available on the TDCJ mainframe report system known as INFOPAC and on the TDCJ website located at www.tdcj.texas.gov. A copy of the published Excerpt from PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees" shall be included in the TDCJ Direct Hire Packet provided to newly hired and rehired employees during the Direct Hire Session conducted in accordance with PD-97, "Training and Staff Development." In addition, human resources representatives shall ensure a copy of the excerpt is posted in a common use area.

II. Reprimanding Authority Determination

- A. The reprimanding authority for an alleged EEO rule violation(s), the EEO-DAO, shall be a TDCJ official designated by the executive director and may be outside the employee's chain of supervision.

Unless the procedures specify otherwise, the term "reprimanding authority" shall be applicable to EEO-DAOs and reprimanding authorities for an alleged non-EEO rule violation(s).

- B. Determination of which TDCJ official shall act as the reprimanding authority for an alleged non-EEO rule violation(s) shall be based on the following:

1. General Provisions

The reprimanding authority shall be a TDCJ official who holds a position in salary group B19 to C4 or above, is authorized by the division director, and is generally in the charged employee's chain of supervision. The reprimanding authority may be outside the employee's chain of supervision as a result of supervisor's absence, conflict of interest, or other circumstances. The reprimanding authority may not be the charging official, a witness, or the prehearing investigator.

2. Dual Supervised Employees

- a. If the dual supervised employee holds a position in salary groups A10 or B10 or below, the employee's administrative line of supervision, which includes the warden, regional director, or designee shall serve as the reprimanding authority.

- b. If the dual supervised employee holds a position in salary groups A11 to B11 or above, the determination of reprimanding authority shall be dependent upon whether the alleged violation(s) is technical or administrative in nature.

- (1) If the alleged violation(s) is technical in nature, the department head or designated TDCJ official in the employee's technical line of supervision shall act as reprimanding authority, unless the department head defers the role to the employee's administrative line of supervision, which includes the warden, regional director, or designee. The department head shall provide the warden with a written notice documenting the deferral. The written notice shall be made a part of the disciplinary packet.

- (2) If the alleged violation(s) is administrative in nature or security related, the warden, regional director, or designated

TDCJ official in the administrative line of supervision shall act as reprimanding authority.

- c. The reprimanding authority shall consult with the other line of supervision regarding any possible disciplinary action against a dual supervised employee in accordance with AD-01.82, "Lines of Authority for Dual Supervision Positions." Matters of disagreement between the lines of supervision shall be resolved by the deputy executive director or the appropriate division director.

The TDCJ official acting as reviewer in any resulting independent dismissal mediation or the responding authority in a resulting grievance shall be from the same line of supervision, administrative or technical, as the reprimanding authority.

3. Conflict of Interest

Participation in the employee hearing and any decision of disciplinary action shall be deferred to another qualified employee who may be outside the employee's chain of supervision if the employee who would usually act as the reprimanding authority:

- a. Actively participates in the prehearing investigation, including a fact finding procedure conducted under the provisions of the TDCJ *Use of Force Plan* or the *Risk Management Program Manual*;
- b. Witnessed the alleged violation(s) and therefore has first-hand knowledge of the facts in the case; or
- c. Is the charging official in the incident.

III. Employee Status Pending Prehearing Investigation and Employee Hearing

If the reprimanding authority does not reassign the employee or permit the employee to continue working in the current position, the reprimanding authority may consider, in the order listed, the following options pending completion of a prehearing investigation and employee hearing:

- A. Involuntary use, in the order listed, of the employee's accrued compensatory then holiday time;
- B. Voluntary use of overtime or vacation time, the employee shall complete a PERS 24, Leave Request; or
- C. Suspension without pay, if the employee does not have any accrued leave other than sick time, or refuses the offer to voluntarily use accrued overtime or vacation time.

Prior to suspending an employee without pay, the reprimanding authority shall obtain written approval from the appropriate division director. The reprimanding authority shall coordinate with his or her human resources representative for approval with the Payroll Department, and to provide a courtesy copy of the written approval to the disciplinary specialist.

IV. Prehearing Investigation

- A. A prehearing investigation provides the reprimanding authority with information regarding an alleged violation(s). Based on the information provided, the reprimanding authority determines whether an employee hearing is warranted.
 - B. The prehearing investigation shall be completed before the employee is notified of an employee hearing.
 - C. For the purpose of the TDCJ employee disciplinary process, a prehearing investigation includes:
 - 1. An EEO prehearing investigation conducted in accordance with PD-13, "Sexual Harassment or Discourteous Conduct of a Sexual Nature," or PD-31, "Discrimination in the Workplace," when an employee allegedly commits an EEO rule violation(s); or
 - 2. A unit or department prehearing investigation conducted by the charged employee's unit or department for any non-EEO rule violation(s) alleged.
- If an alleged EEO rule violation is discovered during a unit or department prehearing investigation, Employee Relations Intake, Human Resources Division shall be contacted before proceeding further.
- D. A unit or department prehearing investigation shall be completed and the findings submitted to the reprimanding authority within 10 workdays of an alleged violation(s), except:
 - 1. When justification for a delay exists, such as an employee or witness is unavailable or there are scheduling conflicts; or
 - 2. When an alleged violation(s) results in a UOF Fact Finding Inquiry, a Risk Management Incident Review Board, or an Office of the Inspector General (OIG) investigation. Upon completion of the proceeding, a prehearing investigation shall be conducted in accordance with the procedures in this directive.

The justification for a delay shall be explained in writing.

- E. A PERS 325-EEO, EEO Prehearing Investigation Report (Attachment G) shall be used when conducting a prehearing investigation relating to an alleged EEO rule violation(s).

The PERS 325-EEO is also an Attachment to PD-13, “Sexual Harassment and Discourteous Conduct of a Sexual Nature,” and PD-31, “Discrimination in the Workplace.”

- F. The PERS 325, Employee Offense and Prehearing Investigation Report (Attachment F), shall be used when recording an alleged violation(s) other than an alleged EEO rule violation(s), when conducting a prehearing investigation, and when making a recommendation(s) to the reprimanding authority.

The prehearing investigator may determine that the employee’s specific conduct or the witness statements have been sufficiently documented in the related UOF Fact Finding Inquiry, Risk Management Incident Review Board, or OIG investigation. If so, the prehearing investigator shall indicate the identity of the fact-finding inquiry or investigation in the applicable areas of the PERS 325 with an entry such as “See attached releasable copy of OIG Investigation Number (insert identifying number)” and attach a releasable copy of the fact-finding inquiry or investigation to the PERS 325. In such instances, the prehearing investigator shall still obtain a statement from the charged employee on the PERS 325.

V. Employee Hearing

The purpose of an employee hearing is to ensure that an employee who has been charged with an alleged violation(s) is provided the opportunity to have the employee’s case heard by the reprimanding authority prior to the imposition of possible disciplinary action. Within five workdays of a prehearing investigation completion date, the reprimanding authority shall determine whether an employee hearing is warranted based on the information supporting that an alleged violation(s) may have occurred. If the reprimanding authority determines that an employee hearing shall be held, the reprimanding authority shall comply with the time limits in Section V.B of this directive relating to employee notification.

A. Employee Hearing Not Warranted

1. EEO Rule Violations

If the EEO-DAO determines that an employee hearing is not warranted, the EEO-DAO shall advise the manager of Employee Relations or designee of the determination on the PERS 325-EEO that an employee hearing is not warranted and the reason for the decision. The completed PERS 325-EEO and any other documentation relating to the prehearing investigation shall be maintained by the manager of Employee Relations or designee.

The manager of Employee Relations or designee shall notify the employee. The EEO-DAO may refer the prehearing investigation to the unit or department reprimanding authority if the EEO-DAO determines the more appropriate charge is not an EEO rule violation. If referred, the reprimanding authority shall follow the guidelines for non-EEO rule violations.

2. All Other Violations

If the reprimanding authority determines that an employee hearing is not warranted, the completed PERS 325 and any other documentation relating to the prehearing investigation shall be maintained in the reprimanding authority's file or returned to the charging official to issue a letter of instruction, PERS 401, or otherwise counsel the employee. No documentation related to the prehearing investigation shall be placed in an employee's unit or department employee disciplinary or human resources file.

If the reprimanding authority moves to another unit, department, or division, the reprimanding authority's file shall remain at the unit, department, or division where the file was established.

The documentation shall be maintained for the same time period required in the approved TDCJ *Records Retention Schedule* for supervisory files.

B. Notification of Employee Hearing

1. Notification Time Limits

If the reprimanding authority determines that an employee hearing is warranted, a PERS 184, Notification of Employee Hearing (Attachment H), shall be completed and provided to the employee within 10 workdays from the date the reprimanding authority signs the PERS 325.

2. Support Documentation or Evidence

a. The PERS 184 shall be completed and given to the employee in person or mailed to the employee, via certified, receipt requested mail, along with:

- (1) A copy of the PERS 560, Guidelines for Employee Hearings (Attachment I);
- (2) A copy of the applicable PERS 325; and
- (3) Support documentation that is subject to disclosure and being used as evidence. All documentation being provided

at the time of the hearing should be acknowledged by the employee in accordance with Section XIII of this directive.

- b. In order to obtain copies of evidence that are not subject to disclosure, such as confidential portions of OIG and EEO reports, the employee is required to request the documents in writing through a public information request. The request shall be processed in accordance with the rules governing a public information request, and the requested documents may not be available before the employee hearing.

3. Identifying Alleged Rule Violation(s)

- a. When preparing the PERS 184, the reprimanding authority shall ensure that the alleged rule violation(s) identified on the form is consistent with the synopsis of the incident(s).
- b. An employee shall be charged with only one violation for one action. If the single action could be charged under more than one rule violation, for example, Rule Number 13, Failure to Obey Proper Order from an Authority, or Rule Number 30, Refusal to Cooperate with an Official Inquiry or Investigation, the reprimanding authority shall determine which violation is appropriate for the single action.
- c. An employee shall be charged with multiple violations for two or more actions when the actions occur within a single incident, at the same time, but each action violates a different rule.

For example, if a supervisor instructs an employee to work overtime and the employee's refusal to do so includes the use of profanity, these are two actions that occur within a single incident. The employee could be charged with a violation of Rule Number 13, Failure to Obey a Proper Order from an Authority, for the action of failure to work overtime, and a violation of Rule Number 14, Use of Offensive Words or Actions, for the action of use of profanity.

- d. An employee shall be charged with separate violations, requiring separate employee hearings, for two or more actions when the actions relate to one situation, but each action is a separate incident occurring at separate times, or the same violation occurs at different times or dates. However, multiple violations resulting from audit reviews of operational or case load procedures shall be addressed as a single violation.

An example of two separate violations is an employee who uses excessive force and then fails to completely report the excessive use of force. The employee shall be charged with a violation of Rule Number 24, Use of Excessive or Unnecessary Force, and a violation of Rule Number 25, Failure to Completely or Accurately Report a Use of Force, or Commission of a Use of Force Administrative or Procedural Violation, because the actions did not occur at the same time.

4. Scheduling Requirements

- a. If the employee allegedly committed multiple, two or more, violations associated with a single incident, only one employee hearing shall be scheduled.
- b. If the employee allegedly committed two or more violations but at different times on the same date or on different dates, separate employee hearings shall be scheduled. Only alleged violations that occurred at the same time shall be addressed in one employee hearing. For example, if an employee submits false health care provider statements on two separate dates, separate hearings shall be scheduled.

The requirement for separate employee hearings for separate incidents applies even when the incidents were investigated through one investigation. The time of the violation determines the order of the hearings.

- c. If the employee is subject to more than one employee hearing, a separate PERS 184 shall be completed for each employee hearing. The employee hearings may be scheduled to be held on the same date; however, a break shall occur between the end and the beginning of each employee hearing. The employee hearing for an alleged violation(s) with the earliest occurrence date shall be conducted first, with succeeding occurrences in date order.
- d. The employee hearing shall be scheduled to be conducted:
 - (1) At a time determined by the reprimanding authority; the reprimanding authority has the discretion to consider the employee's shift and work schedule;
 - (2) On a weekday that allows the employee to receive the PERS 184 at least 24 hours in advance of the employee hearing; and

- (3) No later than five workdays after the employee is notified of the employee hearing.

5. Hearing Location

Hearings may be conducted in person, telephonically, or through video conference, in accordance with location constraints. An employee participating in a telephonic hearing shall do so at a TDCJ office.

6. Delays

If there is a delay in scheduling or conducting the employee hearing within the prescribed time limit, the reprimanding authority shall attach a written explanation for the delay to the PERS 184.

7. Documentation of Receipt

Documentation of the employee's receipt of the PERS 184 shall include the employee's signature and date of signature or the certified mail receipt attached to the copy of the form retained by the human resources representative. If the employee refuses to sign, the date and time shall be indicated in the Employee Notification section and "Refused to sign" shall be written in the signature space and the human resources representative and one witness shall sign and date the PERS 184.

C. Rescheduling of Employee Hearing

1. If an employee is on approved sick leave when the PERS 184 is provided to the employee, the employee may make a one-time request for the hearing to be rescheduled within 30 calendar days. The request to reschedule the hearing shall be made within 48 hours of the PERS 184 being provided to the employee. In addition, the request shall be made in writing or verbally with a written follow-up.

The reprimanding authority should grant the request; however, the reprimanding authority shall provide the employee with a written explanation if the request is denied. A copy of the written explanation shall be included in the disciplinary packet.

2. The employee may indicate on the PERS 184 that the employee elects to waive the 24-hour hearing notice requirement on this same form. When this occurs, the reprimanding authority or designee may reschedule the hearing to be held earlier than the date and time originally scheduled.
3. The reprimanding authority or designee may reschedule the hearing to be held later than the date and time originally scheduled due to unforeseen

circumstances, for example, emergency security situations, if the employee is hospitalized, or due to adverse weather conditions.

4. If the reprimanding authority or designee reschedules the hearing, the reprimanding authority or designee shall:
 - a. Indicate the rescheduled time and date on the PERS 184; and
 - b. If the employee previously indicated on the PERS 184 that the employee is electing to appear at the employee hearing, ensure the employee initials the updated PERS 184 prior to the hearing.

D. Employee Attendance at Employee Hearing

1. Attendance at an employee hearing by an employee charged with an alleged violation(s) shall be considered official business.
 - a. The employee's supervisor shall release the employee on paid time during working hours. The employee shall give the supervisor sufficient advance notice to provide adequate staffing.
 - b. If the employee has been relieved of duty prior to the employee hearing, the time the employee is required to be at the hearing shall be recorded as time worked.
 - c. If the location of the employee hearing is outside the local area of an employee's assigned duty station, the time the employee is required to travel to and from the employee hearing shall be reported as time worked. Eligible travel expenses shall be reported in accordance with state travel regulations and TDCJ policy.
2. If an employee departs during the proceedings, the employee hearing may be conducted and concluded in the employee's absence. The reprimanding authority shall write "Employee failed to sign" on the employee's signature line of the PERS 185, Reprimand Form (Attachment J), and a witness shall initial and date the statement.
3. When a PERS 184 has been given to the employee in person or mailed to the employee via certified, receipt requested mail, but the employee fails to appear as scheduled, the employee hearing may be initiated, conducted, and concluded in the employee's absence. The reprimanding authority shall write "Employee failed to attend" on or beside the employee's signature line on the PERS 185 and a witness shall initial and date the statement.

E. Representation

1. An employee charged with an alleged violation(s), pursuant to the provisions of this directive, may elect to be represented at the employee hearing by a designee of the employee's choice, except the representative shall not claim the right to strike or be an individual under the supervision or custody of the TDCJ. The representative shall be allowed to participate in the employee hearing in accordance with the PERS 560, Guidelines for Employee Hearings. Telephone participation by the designee shall only be permitted on a telephone located at a TDCJ facility.
2. While an employee may elect to have a representative of the employee's choice, there is no provision for the TDCJ to schedule the employee hearing around a representative's calendar or pay compensation to or reimburse a representative's expenses, regardless of whether the representative is a state employee or an individual from outside state service.
 - a. Any meetings between an employee and the employee's representative relating to preparation for an employee hearing shall not occur during paid working hours.
 - b. If an employee acting as a representative elects to attend an employee hearing held during working hours, the employee shall obtain prior approval to use accrued leave or, if accrued leave is not available, leave without pay.

F. Witnesses

1. Witnesses shall be limited to individuals having first-hand knowledge of the events under review and shall not include character witnesses or witnesses with "hearsay" evidence.
2. If an employee elects to present testimony from witnesses on the employee's behalf, the employee shall provide a list of witnesses with a summary of the expected testimony to the reprimanding authority prior to the hearing. In addition, the employee may provide any written questions for witnesses to the reprimanding authority. There is no requirement for the reprimanding authority or designee to ask the written questions. If the reprimanding authority elects to ask the written questions, the questions may be asked prior to or after the employee hearing.
3. The reprimanding authority shall determine whether a witness is allowed to appear or is interviewed at the employee hearing. It is not necessary to interview witnesses during the employee hearing if a previous investigation has adequately disclosed the facts relating to the expected testimony.

4. It is the employee's responsibility to arrange for witnesses to be available for a possible appearance on the employee's behalf and at no expense to the TDCJ other than paid time for employees. In lieu of having a witness be available for a possible appearance at the employee hearing, the employee may obtain and submit signed statements on the employee's behalf from the witnesses.

G. Recording of Employee Hearing

Audio taping, video taping, or verbatim written recording of an employee hearing is not permitted. Note taking is permissible.

H. *Americans with Disabilities Act (ADA) Accommodations*

An employee in need of an accommodation to participate in an employee hearing shall request an accommodation in accordance with PD-14, "Americans with Disabilities Act and Employment of Persons with a Permanent Medical Condition."

I. Employee Hearing Process

The reprimanding authority shall:

1. Convene the employee hearing at the appointed date and time;
2. Advise the employee of the alleged violation(s);
3. Ensure the employee was properly notified and provided copies of all disclosable support documentation. If the employee has not been properly notified and provided authorized documents, the reprimanding authority shall:
 - a. Immediately discontinue the employee hearing;
 - b. Reschedule the hearing and provide 24-hour notice;
 - c. Obtain copies of required documents for the rescheduled hearing; and
 - d. Obtain the employee's signature to confirm receipt of the documents.
4. Provide the employee or the employee's representative an opportunity to respond to the allegation(s), present a defense on the employee's behalf, and present pertinent information relating to the allegation(s).

Both the employee and the employee's representative may provide information to the reprimanding authority for consideration. However, only one person may be designated as the party responsible for presenting the employee's defense, and only one person may speak at a time. An employee hearing is administrative in nature and is not subject to common law or statutory rules of evidence. Objections at the employee hearing by the employee or the employee's representative shall be limited to TDCJ policy and procedural issues as they pertain to the employee hearing;

5. Determine if a violation(s) occurred based upon a preponderance of the evidence submitted;
6. Determine the proper characterization of the violation(s); and
7. Determine the disciplinary action to be imposed based on the disciplinary action determination factors identified in Section VII of this directive.

If an alleged EEO rule violation is discovered during a hearing, Employee Relations Intake, Human Resources Division shall be contacted before proceeding further.

J. Recharacterization of Violation(s)

Based on information presented during the employee hearing, the reprimanding authority may recharacterize the rule violation(s) identified on the PERS 184.

For example, an employee may have been notified of being charged with a violation of Rule Number 7, Substandard Duty Performance, level 4, for failure to wear safety gloves, but the reprimanding authority determines during the employee hearing that the employee's action is actually a violation of Rule Number 8, Failure to Follow Proper Safety Procedures, level 4.

Although the recharacterization can be made based on facts elicited during the hearing, the newly identified violation(s) must arise from the same facts described on the PERS 184 to ensure the employee has sufficient opportunity to respond to the charge.

1. If the newly identified violation(s) is of the same or less severe violation level than the violation(s) identified on the PERS 184, the reprimanding authority shall continue conducting the employee hearing and document the change and justification for the recharacterization on the PERS 185.
2. If the newly identified violation(s) is a more severe violation level than the violation(s) identified on the PERS 184, the reprimanding authority shall immediately discontinue the employee hearing. A new PERS 184 shall be completed, another employee hearing scheduled, and the employee

provided an additional 24-hour notice. This action provides the employee time to prepare for a discussion relating to the more severe charge.

VI. Disciplinary Action Not Determined During Initial Employee Hearing

If, for any reason, the reprimanding authority does not determine whether a violation(s) occurred or the appropriate disciplinary action during the initial employee hearing, the reprimanding authority shall:

- A. Document why the decision was not made during the employee hearing and attach the documentation to the PERS 185 from the initial hearing;
- B. Advise the employee and document the information on the Notification of Reschedule Employee Hearing section at the bottom of the PERS 184 for the reconvened hearing, and have the employee place initials as acknowledgement;
- C. Reconvene the employee hearing within 15 workdays of the original hearing;
- D. Document the date of the reconvened hearing on the PERS 185; and
- E. Notify the employee of the decision in person, telephonically, or through video conference, during the reconvened hearing.

VII. Factors Affecting Disciplinary Action

If the reprimanding authority determines an employee is not guilty because the violation did not occur or there were extenuating circumstances, a finding of not guilty shall be marked, along with no discipline imposed (NDI).

If the reprimanding authority determines that an employee is guilty of a violation and extenuating circumstances justify an NDI action, the reprimanding authority shall provide that justification at the bottom of the PERS 185.

If the reprimanding authority determines that a violation(s) did occur, the reprimanding authority shall indicate a finding of guilty and decide whether to impose disciplinary action and the severity of the action. Disciplinary actions shall be based on job-related and non-discriminatory criteria. The reprimanding authority shall consider the following factors:

- A. The seriousness of the violation(s).
- B. The employee's work history, including job performance and length of service.
- C. The Guidelines for Disciplinary Actions, which assist the reprimanding authority in imposing appropriate and consistent disciplinary action.

1. A reprimanding authority shall not impose disciplinary action below the guidelines for a level 1 violation(s), unless the reprimanding authority receives prior written approval, such as an interoffice communication (IOC) or email, from the executive director, deputy executive director, or appropriate division director. The reprimanding authority shall attach the written approval to the PERS 185.
 2. A reprimanding authority may impose disciplinary actions below or above the guidelines for levels 2, 3, or 4 violations. If the employee is guilty of the violation(s), a decision to not impose any disciplinary action shall be considered “below the guidelines.” The reprimanding authority shall document the deviation through one of the following:
 - a. Writing, signing, and dating a letter explaining why a deviation was deemed appropriate and attaching the letter to the PERS 185; or
 - b. Checking the appropriate “Above” or “Below” box at the bottom of the PERS 185 and providing an explanation in the appropriate space on the PERS 185.
- D. Whether the employee is a supervisor. A more severe penalty may be considered if the employee is a supervisor, as supervisors are expected to conduct themselves as role models for employees. For example, a supervisor and a subordinate engage in a verbal altercation, which is a violation of Rule Number 15A, “Instigating or Participating in a Verbal Confrontation or Altercation,” carries a penalty of three to four months probation, and may include one to five workdays of suspension. As a penalty, the subordinate receives probation only, while the supervisor receives a combination of probation and suspension. Another example is, if an altercation occurred between two supervisors or ranking officers, the reprimanding authority may consider a penalty above the minimum in the range for the violation.
- E. Aggravating or mitigating circumstances. Mitigating circumstances may justify the imposition of disciplinary actions below the Guidelines for Disciplinary Actions. Aggravating circumstances may justify the imposition of disciplinary actions above the Guidelines for Disciplinary Actions.
1. If the Aggravated Use of Force Provision, identified on the Listing of Employee General Rules of Conduct and Disciplinary Violations is applicable, the disciplinary action imposed shall be based on the next most severe range of disciplinary actions within the appropriate violation level.
 2. Multiple violations associated with a single incident, or multiple unrelated violations for which there has not been sufficient time for disciplinary action to be imposed, shall be considered a significant aggravating circumstance and may warrant more severe disciplinary action than a

single violation. The sanctions imposed for multiple violations shall be in accordance with the range of disciplinary actions recommended for the most serious violation listed, and the other violations shall be considered as lesser included offenses or as aggravating circumstances.

- F. Whether or not the violation is a subsequent violation. The TDCJ disciplinary guidelines are progressive in nature to encourage positive behavioral change and improve employee performance. Therefore, if a violation is a subsequent violation, the sanctions imposed shall be more severe than the sanctions that would otherwise be imposed, such as the second range of disciplinary actions instead of first range of disciplinary actions.

A Violation is a Subsequent Violation if:	
Within One Year Prior to Date of Discipline:	Within Two Years Prior to Date of Discipline:
Employee received: (1) a “Reprimand Only” discipline for any level violation; or (2) a “Reprimand with Action” discipline for a level 4 violation.	Employee received a “Reprimand with Action” discipline for a level 1, 2, or 3 violation.
Special provisions apply for the violation of tardiness. Tardiness may only be considered as a subsequent violation for previous violations of tardiness or unexcused absenteeism; tardiness may not enhance any other violation. A previous violation with a guilty finding but no discipline imposed does not enhance a subsequent violation.	

Disciplinary Actions for a Subsequent Violation	
If a subsequent violation is the employee’s second violation, the minimum disciplinary action shall be within the second range of recommended disciplinary actions for the most serious sustained violation on the current PERS 185, Reprimand Form.	If a subsequent violation is the employee’s third violation, the minimum disciplinary action shall be within the third range of recommended disciplinary actions for the most serious sustained violation on the current PERS 185, Reprimand Form.
If an individual’s previous violation was tardiness only and the subsequent violation is unexcused absenteeism, the minimum disciplinary action shall be within the range for a second violation of unexcused absenteeism. Unexcused absenteeism also enhances subsequent violations of tardiness. An individual may not be recommended for dismissal based on tardiness until the fourth separate occurrence of a sustained violation of tardiness or unexcused absenteeism that falls within the subsequent violation guidelines.	

- G. Discipline imposed on other employees by the reprimanding authority for the same violation(s).

VIII. Disciplinary Actions

A. General Provisions

1. Regardless of the date a violation occurred, the reprimanding authority shall use the Guidelines for Disciplinary Actions that are effective on the date disciplinary action is imposed.
2. The effective date of discipline shall be the date the reprimanding authority renders and records the disciplinary action on the PERS 185.
3. If an employee received a pay increase, such as a promotion or salary adjustment increase, after committing a violation(s) but before disciplinary action was imposed, the reprimanding authority shall consider withdrawing the increase as part of any other disciplinary action warranted under the circumstances.

B. Reprimand Only

A reprimand only is the least severe form of reportable disciplinary action taken against an employee.

C. Reprimand with Action

A reprimand with action is a more severe disciplinary action and shall include one or more of the following actions listed below in order of severity beginning with the least severe action:

1. Disciplinary Probation

Disciplinary probation may be imposed as the only disciplinary action for an offense; however, it shall be included as a part of the disciplinary action if suspension without pay, reduction in pay, or demotion is imposed. While on disciplinary probation, an employee shall not be recommended for or receive a merit salary increase, any salary adjustment increase, promotion or transfer, other than an emergency transfer.

a. Disciplinary Probation Periods

Disciplinary probation may be imposed for a period ranging from one calendar month to 12 calendar months.

(1) Beginning and End Date

If an employee is not currently on disciplinary probation, the probation period shall begin on the date the reprimanding authority imposes the disciplinary action.

Disciplinary probation periods shall not be backdated to the date of the violation(s), and the beginning date shall not be postponed in order for the employee to receive a salary increase.

The disciplinary probation period shall continue for the number of calendar months assessed by the reprimanding authority. An example of a calendar month is from August 21 through September 20. If an employee is placed on disciplinary probation on August 21 for three calendar months, the last day of the disciplinary probation period shall be November 20.

(2) Subsequently Imposed Periods of Disciplinary Probation

If an employee has not completed serving a period of disciplinary probation at the time the employee is subject to further disciplinary action for another violation, the employee shall serve any subsequently imposed period of disciplinary probation consecutively, not concurrently. The subsequently imposed period of disciplinary probation shall begin the day after the current probation period ends.

(3) Interruptions Due to Leave Without Pay (LWOP)

If the employee's disciplinary probation period is interrupted by one or more full calendar months of LWOP, which includes the first calendar day through the last calendar day of the same month, those months shall automatically be added to the ending date of the employee's probation period reflected on the TDCJ Payroll/Personnel System (PPS) Disciplinary Probation History (DISCLS) screen. The ending date shall be updated when the human resources representative enters the Payroll Status Change in the PPS Payroll Status Change Update (PSCUPD) screen reporting the employee's return to work. Days of LWOP other than a full calendar month shall not extend a disciplinary probation period.

b. Effect on Automatic Salary Rate Increases

For procedures relating to the effect of disciplinary probation on automatic salary rate increases, refer to PD-72, "Employee Salary Administration."

2. Suspension Without Pay

The following guidelines shall be followed when imposing a period of suspension without pay. Whenever suspension without pay is imposed, disciplinary probation shall also be imposed.

PD-27, "Employee Duty Status Pending Resolution of Criminal Charges or a Protective Order" shall be referred to before an employee is placed on suspension without pay pending the outcome of criminal charges.

a. Periods of Suspension Without Pay

- (1) An employee may be suspended for up to 30 of the employee's regularly scheduled working days, with working days varying based on an employee's work cycle and schedule; however, the specific number of working days of suspension imposed shall coincide with the applicable range of disciplinary actions for the violation(s).
- (2) A period of suspension without pay shall begin on the date it is imposed, unless the beginning date would disrupt payroll processes, for example, a suspension is imposed at the end of a work cycle or at the end of a calendar month. In such a case, the period of suspension may be delayed until the beginning of a work cycle or the beginning of the next calendar month.

b. Coordination with Payroll and Employee's Supervisor

The reprimanding authority shall ensure a payroll status change is completed and approved and the employee's supervisor is notified of the suspension without pay.

- (1) The Payroll Department shall ensure the employee receives the correct reduced amount of pay for the pay period.
- (2) The employee's supervisor shall ensure the employee does not work any hours other than the employee's regularly scheduled work hours, such as additional compensatory time or overtime, during a work cycle that includes any hours of suspension without pay.

This action prevents additional hours worked from offsetting the hours of suspension without pay.

c. Access to Premises While Suspended

While on suspension without pay, the employee shall not be permitted access to secure TDCJ premises. Employees shall be allowed to perform necessary tasks, such as turning in state property or going to their place of residence if they reside in TDCJ housing. The employee shall immediately turn in the employee's ID card and state issued keys to the human resources representative. In addition, if the employee is suspended for more than five workdays, the employee shall immediately turn in any other state issued items or equipment, such as uniforms and parking permits, to the employee's human resources representative.

3. Reduction in Pay

An employee's salary rate may be reduced within the employee's current salary group in accordance with PD-72, "Employee Salary Administration." Whenever reduction in pay is imposed, disciplinary probation shall also be imposed.

a. Effective Date

The effective date for a reduction in pay shall be based on payroll deadlines. If suspension without pay is imposed, the effective date of the reduction in pay shall be the day after the period of suspension without pay is completed.

b. Restoration of Salary Rate

Once the disciplinary probation period ends, the restoration of the employee's former salary rate and career ladder level, if applicable, shall be in accordance with the provisions in PD-72, "Employee Salary Administration."

4. Demotion

A demotion shall result in a monetary loss in accordance with PD-72, "Employee Salary Administration." Whenever demotion is imposed, disciplinary probation shall also be imposed.

a. Position Requirements

- (1) Prior to imposing a demotion, the reprimanding authority shall ensure a valid payroll position exists and the authority to fill the position has received budget approval.

- (2) A demotion shall result in the employee remaining in the same career field and under the same chain of supervision, for example, a demotion from major to captain, lieutenant, or sergeant, unless:
 - (a) The employee meets the minimum qualifications for a position outside the employee's current career field;
 - (b) The demotion is coordinated with the Employment Section, Human Resources Division; and
 - (c) The department head for the position to which the employee is being demoted concurs with the demotion.
- (3) If the employee being demoted is a dual supervised employee or would become a dual supervised employee as a result of the demotion, the reprimanding authority shall obtain approval from the warden or regional director and department head.

b. Effective Date

The effective date for a demotion shall be based on payroll deadlines. If suspension without pay is imposed, the effective date of the demotion shall be the day after the period of suspension without pay is completed.

c. Restoration of Previous Position

- (1) If the employee is in a career ladder position, restoration of the employee's former position upon completion of the disciplinary probation period shall be in accordance with the provisions in PD-72, "Employee Salary Administration."
- (2) If the employee is not in a career ladder position, the reprimanding authority shall not reinstate the employee to the employee's former position or salary group. Such an employee shall compete in order to receive a promotion to the former position or salary group.

D. Dismissal

Dismissal is the most severe type of disciplinary action.

1. If the violation is an EEO rule violation, the appropriate EEO-DAO shall approve the dismissal after the dismissal recommendation review process is completed. Approval date will be the date of signature.
2. If the violation is a non-EEO rule violation, the reprimanding authority may recommend dismissal; however, only the executive director, deputy executive director or the appropriate division director may approve the dismissal. Approval date will be the date of signature.
3. The reprimanding authority shall document a dismissal recommendation on the PERS 185 and a PERS 186, Dismissal Recommendation and Action form (Attachment K), then attach the PERS 185 to the PERS 186.
4. The reprimanding authority shall not recommend other disciplinary sanctions to be taken in case the dismissal recommendation is not approved. Other punishment, if any, shall be determined by the division director and coordinated through the disciplinary specialist.

IX. Notification of Disciplinary Action Other than Dismissal

- A. Within 24 hours of imposing a disciplinary action other than dismissal, the reprimanding authority shall ensure the disciplinary information is entered by the human resources representative into the PPS Disciplinary Update (DISCAU) screen.
- B. The original PERS 184, PERS 185, and support documentation shall be forwarded to the disciplinary specialist within 10 workdays after final action is taken.

X. Notification of Dismissal Recommendation and Approval Process

A. Employee Status Pending Final Approval

Pending final approval of the dismissal recommendation, the reprimanding authority shall use the following options in the order listed:

1. Involuntary use of the employee's accrued state compensatory time, including "comp time" and "holiday time";
2. Voluntary use of overtime or vacation time; the employee shall complete a PERS 24, Leave Request;

3. Suspension without pay, if employee does not have any accrued leave other than sick time, or refuses the offer to voluntarily use accrued overtime or vacation time; or
4. In limited circumstances, the following may be used:
 - a. Change to another job assignment; or
 - b. Administrative leave, in accordance with PD-49, "Leaves Other Than Medical and Parental," in extremely unusual cases if granted by the executive director.

B. Submission of Dismissal Recommendation

1. Within 24 hours of imposing a disciplinary action resulting in a dismissal recommendation, the human resources representative shall ensure that the following actions are taken:
 - a. Ensure the Employee Disciplinary E-form (DISCIPLINE) is completed and sent to the disciplinary specialist and the appropriate regional director, if applicable;
 - b. Update the PPS DISCAU screen; and
 - c. Fax one copy of the PERS 186 with complete support documentation to the disciplinary specialist.
2. The disciplinary specialist shall conduct a technical review of the recommendation for dismissal in accordance with Section XI.A of this directive.
 - a. If the technical review results in an employee's dismissal being changed to a less severe disciplinary action, the disciplinary specialist shall coordinate the employee's return to work with the unit or department, and payroll.
 - b. If the technical review by the disciplinary specialist does not result in changes to the dismissal recommendation or the changes requested do not affect the punishment outcome, the disciplinary specialist shall take the following actions:
 - (1) The disciplinary specialist shall send an email to the reprimanding authority requesting that changes be made or that the following be hand carried or forwarded via overnight mail to the disciplinary specialist:
 - (a) The original disciplinary packet;

- (b) A copy of the entries into the employee's PERS 401, TDCJ Employee Performance Log, for the 12 months preceding the date of the employee hearing;
 - (c) A copy of the employee's last annual PERS 11, Employee Performance Evaluation, maintained in the employee's human resources file; and
 - (d) Copies of documentation relating to any pending disciplinary actions relating to the employee.
- (2) The disciplinary specialist may forward any recommendation for dismissal to the Office of the General Counsel (OGC) for review and a determination of legal sufficiency. Following the review, the OGC shall return the recommendation for dismissal to the disciplinary specialist.
 - (3) The disciplinary specialist shall forward the recommendation to the human resources director to determine if the dismissal recommendation is technically sufficient.
 - (4) After the human resources director reviews the recommendation for dismissal, the disciplinary specialist shall hand deliver or mail, via overnight mail, the original disciplinary packet with complete support documentation to the appropriate TDCJ official who has been authorized to represent the TDCJ in an independent dismissal mediation session.

The TDCJ official shall retain the original disciplinary packet until an independent dismissal mediation session is held in accordance with PD-35, "Independent Dismissal Mediation and Dispute Resolution," or until receipt of notification from Employee Relations advising that the employee waived the mediation option.

- 3. After the mediation session has occurred or upon receipt of notification that the employee waived the mediation option, the TDCJ official shall forward the original disciplinary packet and support documentation to the disciplinary specialist.
- 4. If applicable, dismissal action shall be completed within 30 workdays after the independent dismissal mediation session results in the dismissal recommendation not being overturned or receipt of notification advising that the employee waived or forfeited the mediation option. A

documented explanation of any required extension shall be attached to the PERS 186.

- a. If a dismissal recommendation is not approved, the executive director, deputy executive director, appropriate division director, or appropriate EEO-DAO shall indicate on the PERS 186 the disciplinary action is modified and the specific disciplinary action to be imposed in lieu of dismissal, or the disciplinary action is rescinded and no disciplinary action shall be imposed.

The original disapproved PERS 186 shall be forwarded to the disciplinary specialist who shall:

- (1) Contact the employee and coordinate the employee's return to work; and
 - (2) If the employee was charged with an alleged EEO rule violation, notify the manager of Employee Relations or designee that the dismissal recommendation was not approved.
- b. Upon approval of the dismissal by the executive director, deputy executive director, appropriate division director, or appropriate EEO-DAO, the original disciplinary packet shall be forwarded to the disciplinary specialist. The disciplinary specialist shall notify the unit or department of the decision via email, the human resources representative shall enter the Payroll Status Change in the PPS PSCUPD screen, and mail a copy of the decision and support documentation to the employee via certified, receipt requested mail. If the employee was charged with an alleged EEO rule violation(s), the disciplinary specialist shall also provide a copy of the decision and support documentation to the manager of Employee Relations or designee.

XI. Technical Review Process

The TDCJ reserves the right to correct errors that may have occurred during the disciplinary process. Upon receipt of the disciplinary packet, the disciplinary specialist shall conduct a technical review of the disciplinary actions to ensure the imposition of disciplinary actions comply with the provisions of this directive, including the requirement that disciplinary actions be based on job-related criteria. Recommended changes shall be coordinated with the reprimanding authority. The reprimanding authority shall note any changes on the existing PERS 185.

- A. When a violation has been mischaracterized and the correct violation would result in a more severe disciplinary action, the reprimanding authority shall:
1. Immediately discontinue the employee hearing;
 2. Complete a new PERS 184;
 3. Schedule another employee hearing; and
 4. Provide the employee an additional 24-hour notice.

The original support documentation may be used and correction(s) made to the original reprimand form.

- B. In the event a suspension without pay, reduction in pay, or demotion is removed as part of the technical or administrative correction, the disciplinary specialist shall initiate the necessary paperwork to correct the employee's suspension, reduction in pay, or demotion. The disciplinary specialist shall coordinate the change with the Payroll Department and the unit or department human resources representative.
- C. Whenever the technical review results in a change to the PERS 185, the reprimanding authority shall provide the employee a copy of the corrected PERS 185 and any support documentation, and return the original PERS 185 to the disciplinary specialist.

XII. Modification or Overturn of a Finalized Disciplinary Action

If a reprimanding authority believes a finalized disciplinary action, other than dismissal, should be modified or overturned, or if the disciplinary specialist believes such a disciplinary action should be overturned, an IOC or email requesting approval of the action shall be submitted through the appropriate regional director, section director, or higher level of authority. If a request from a reprimanding authority is approved, the reprimanding authority shall submit the approved request to the disciplinary specialist for processing.

Approval from the appropriate regional director, section director, or higher level of authority is not required when a disciplinary action is modified or overturned in response to an employee grievance, or when a disciplinary action is modified as a result of the technical review by the disciplinary specialist and concurrence of the reprimanding authority. In these cases, the action shall be adjusted as stipulated in the employee grievance response or administratively amended in accordance with Section XI.A of this directive to bring the action into compliance within the guidelines of this directive.

XIII. Documentation of Disciplinary Action

- A. All formal disciplinary actions become a permanent part of the unit or department employee disciplinary file and Master Human Resources File, and documentation shall meet one of the following requirements:
 - 1. Documents containing a statement, "I acknowledge receipt of a copy of this action and understand this information shall be placed in my unit or department employee disciplinary file and Master Human Resources File," with the employee's signature and date of signature;
 - 2. Documents indicating a copy was sent to the employee;
 - 3. Documents on which, if the employee refuses to sign, "Refused to sign" is written in the signature space, and the documents contain the signatures and dates of signatures of the reprimanding authority and one witness; or
 - 4. An IOC signed and dated by the employee identifying all documents or copies the employee received.
- B. Disciplinary documentation shall not be deleted from a Master Human Resources File except in accordance with the TDCJ *Records Retention Schedule* or expunged except in accordance with a court order. When a disciplinary action is modified, documentation identifying the modification shall be added to the employee's Master Human Resources File.

XIV. Employee Separations

- A. Rehire Review Required
 - 1. The warden or department head shall prepare a PERS 327, Rehire Review Required (Attachment L) for approval by the executive director, deputy executive director, appropriate division director or designee if an employee separated from the TDCJ and:
 - a. One of the following types of investigations was being conducted:
 - (1) OIG;
 - (2) EEO;
 - (3) UOF;
 - (4) City, county, state, or federal pending criminal charges; or
 - (5) Unit or department.

An on-going TDCJ related unit, department, or EEO investigation shall be completed to the extent possible and a recommendation made whether there is sufficient information to determine whether a rule violation may have occurred.

The documentation relating to the investigation shall be attached to the copy of the PERS 327.

- b. A disciplinary hearing or imposition of disciplinary punishment was pending.

A PERS 327 may also be prepared if an investigation initiated after an employee's resignation discloses information that should be considered if the employee applies for re-employment with the TDCJ. Specific information regarding what was discovered may be recorded in the "Comments" section of PERS 327 or in a separate IOC.

- 2. The warden or department head shall attach any supporting documentation, such as hearing or disciplinary documentation, and a copy of the employee's resignation letter, if applicable, to the PERS 327 and forward to the appropriate approving authority.
 - 3. Upon signing the PERS 327, the appropriate approving authority shall forward the original statement to the disciplinary specialist, along with the supporting documentation and a copy of the employee's resignation letter, if applicable, and provide a copy of the approved statement to the human resources representative at the originating unit or department, for inclusion in the unit or department disciplinary file.
 - 4. The human resources representative shall mail a copy of the approved statement to the employee.
 - 5. The disciplinary specialist shall process and maintain the original statement and forward a copy of the statement for placement in the employee's Master Human Resources File.
- B. If an employee separates before completing disciplinary sanctions, PSC Code RS57A, or resigns after dismissal has been recommended but before the dismissal recommendation receives final approval, PSC Code RS57C, a PERS 327 is not required, provided no additional investigations or disciplines are pending. Such information is entered by the human resources representative into the PPS system and is reviewed by the Employment Section if the employee applies to be rehired.
 - C. If the employee applies for re-employment with the TDCJ, an offer of employment shall not be made unless the executive director, deputy executive director, appropriate division director, or designee reviews the facts involved and approves the offer of employment.

1. If applicable, the TDCJ official who approves the offer of employment shall determine whether an investigation that was on-going at the time of separation is to be completed, with the understanding that completion of the investigation may result in the rehired employee being subject to an employee hearing and imposition of disciplinary action.
2. If the employee separated employment while on disciplinary probation, the employee shall be required to complete the previously imposed disciplinary probation period. The employee shall not be required to complete any other previously imposed disciplinary action, such as reduction in pay.

XV. Back Pay and Restoration of Leave

An employee may be eligible to receive back pay or have accrued leave restored when the TDCJ requires the employee to be placed in a leave with pay or leave without pay status as part of a disciplinary action in accordance with this directive and disciplinary action is voided or overturned, for example, a dismissal recommendation is not approved by the final approving authority. The human resources director shall forward a recommendation regarding back pay and restoration of accrued leave to the executive director.

Brad Livingston
Executive Director

LISTING OF EMPLOYEE GENERAL RULES OF CONDUCT AND DISCIPLINARY VIOLATIONS

These general rules are established to specify the conduct required of employees regarding relationships with other employees, offenders, supervisors and the general public.

DEFINITIONS:

The following definitions apply solely to the rule violations.

“Conviction,” for TDCJ purposes, is defined as a judgment or a verdict, a plea of guilty or nolo contendere, or a judicial finding of guilt substantiated by the evidence which results in the payment of fines, forfeiture of collateral or bond, restitution, deferred adjudication, community supervision, such as probation, confinement, suspended sentence, or any other penalty imposed by a court of law or agreed upon by the accused. This includes instances where a pardon or a reprieve has been granted for any reason other than proof of innocence. A pretrial diversion is not a conviction. A pretrial diversion is an agreement between the defendant and the prosecutor and occurs prior to a judicial finding, although the judge may approve the agreement. This is different from deferred adjudication which takes place after a judicial finding.

“Discourteous Conduct of a Sexual Nature” is conduct, in words or actions, of a sexual nature toward or witnessed by another TDCJ employee or other individual, see definition for “Other Individual” that: (a) a reasonable person would find offensive; or (b) is unwelcome to the person to whom such conduct is directed and that person has communicated, by words or actions, to the other person that the conduct is unwelcome.

“Discrimination” is unequal treatment of persons based on sex (gender), including sexual harassment, race, color, religion, national origin, age (40 or above), disability, or genetic information. Discrimination by employers falls into four general areas: (1) hiring and firing, such as failing, refusing to hire, or discharging; (2) employment conditions, such as compensation, terms, conditions, or privileges; (3) segregation and classification, such as limiting, segregating, or classifying employees in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect their status as an employee; and (4) training programs.

“Employee,” for the purpose of this directive, is any person employed by the TDCJ on a full-time, part-time, or temporary basis.

“Harassment” is the act of systematic or continued unwanted and annoying actions, including threats and demands, directed toward an employee or other individual that may create a hostile work environment for the person to whom the actions are directed. Harassment, for the purpose of Rule Numbers 21, other than sexual harassment, and 53, is harassment based on race, color, religion, sex (gender), national origin, age (40 or above), disability, or genetic information.

“Hazing” is any conduct by an employee that subjects another person to anything that may physically, mentally, emotionally, or psychologically endanger, abuse, degrade, or intimidate the person for any reason.

“Horseplay” is rough or boisterous conduct by an employee for the purpose of amusement, such as running, wrestling, or offensive practical jokes.

“Hostile Work Environment” is offensive behavior that is severe or pervasive enough to alter the victim’s employment conditions and create an abusive working environment. All the circumstances must be judged, including the frequency of the conduct, the severity, whether it is physically threatening or humiliating, or a mere offensive utterance, and whether it unreasonably interferes with an employee’s work performance. Isolated instances, unless extremely serious, shall not amount to discriminatory changes in the terms and conditions of employment.

“Marriage” includes “ceremonial marriage” and “informal marriage,” which are the two types of marriage recognized by the state of Texas and are defined as follows:

“Ceremonial Marriage” is a marriage documented by: (1) a marriage license recorded with a county clerk; and (2) a marriage certificate issued by the county clerk.

“Informal Marriage,” previously referred to as common law marriage, is a marriage that is not necessarily documented through a county clerk but is valid when a man and woman either sign and register a declaration of their marriage or perform all of the following: (1) agree to be married; (2) after the agreement, live together in the state of Texas as husband and wife; and (3) represent to others that they are married.

“Offender” is an individual under the supervision or custody of the TDCJ, including a TDCJ offender housed in privately operated, federal, county, or other states’ facilities. These individuals include, but are not limited to, parolees, individuals under mandatory supervision, incarcerated individuals, and individuals housed in county jails that have been sentenced to the TDCJ but are not yet in TDCJ custody.

“Other Individual,” for the purpose of Rule Number 5, includes, but is not limited to, a contract employee, applicant, employee of a vendor, or volunteer. For the purpose of Rule Numbers 21, 50, and 53, the definition includes, but is not limited to, a contract employee, applicant, employee of a vendor, or volunteer who reports or is a victim of sexual harassment, discrimination, or discourteous conduct of a sexual nature. This definition does not include an individual under the supervision or custody of the TDCJ.

“Property” is anything owned or leased by the state, such as equipment, land, motor vehicles, or structures.

“Retaliation,” for the purpose of this directive, and Rule Numbers 21 and 53, is any action that may deter a reasonable person from filing a complaint, participating in a proceeding regarding, or otherwise opposing an alleged EEO rule violation, or for associating with the applicant, employee, or other individual who is involved in such an activity. For Rule Number 22, retaliation is any adverse action taken against a person for any reason, which is not supported by TDCJ policy.

“Serious Injury” is bodily damage that is more than minor, such as damage requiring one time treatment and observation.

“Sexual Harassment” is unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when: (a) the conduct is sufficiently pervasive or severe that it has the effect of unreasonably interfering with an individual’s work performance or creating a work environment that a reasonable person would find intimidating, hostile, or offensive; (b) submission to the conduct is made either explicitly or implicitly a term or condition of an individual’s employment; or (c) submission to or rejection of the conduct by an individual is used as a basis for employment decisions affecting the individual.

“Spouse” is an employee’s husband or wife through either a ceremonial marriage or an informal marriage.

“Use of Force” is a controlling measure taken during a confrontational situation to achieve the compliance of an offender or to maintain a safe and secure environment for offenders and staff.

“Deadly Force” is force intended or known by the actor to cause, or in the manner of its use or intended use is capable of causing, death or serious bodily injury.

“Excessive Force” is the use of more force than is objectively reasonable to accomplish a lawful purpose.

“Non-Provoked Use of Force” is force used in response to an action by an offender(s) if the offender’s action did not involve physical assault, attempts at physical harm, an escape attempt, mutiny, rebellion, serious damage to property, or force used in response to an offender’s verbal abuse only.

“Provoked Use of Force” is force used in response to an action by an offender(s), such as a physical assault or an attempt to physically harm oneself or another, that is necessary to prevent an escape, regain control of an institution, temporarily isolate or confine an offender, prevent serious damage to property, or gain compliance with a legal order or policy for which some degree of force is required to defuse the situation. Throwing of liquids, spitting, and other such actions may be considered a provoked use of force situation depending on the circumstances. However, verbal abuse in and of itself shall not be considered a provoked use of force situation.

“Unnecessary Force” is the use of force when none is required or appropriate.

RULE NUMBER, DESCRIPTION, AND VIOLATION LEVEL

1. Tardiness - Less than One Hour - Violation Level 4:

Tardiness is less than one hour of regularly scheduled work missed without authorization.

An employee is required to report to work at the time specified unless excused by the appropriate supervisor. An employee who is unable to report to work on time shall notify the appropriate supervisor of the estimated time of arrival for duty.

Generally, instances of tardiness shall be handled informally by documenting the occurrence in the employee’s PERS 401, TDCJ Employee Performance Log in accordance with PD-52, “Performance Evaluations.” Formal disciplinary action shall be initiated for the offense of tardiness only when one of the following occurs: (1) when an employee incurs a third instance of

tardiness within a rolling six month period; or (2) an employee who has been charged and disciplined for tardiness has a subsequent violation of tardiness within one year from the date that the prior violation of tardiness resulted in the imposition of disciplinary action. At the reprimanding authority's discretion, bona fide reasons for excused tardiness, such as unexpected road closings that result in a re-routing of traffic or adverse weather, may be an exception to the guidelines for formal disciplinary action. Such situations shall be determined on a case-by-case basis.

If an employee misses less than eight minutes of regularly scheduled work without authorization, the employee may be disciplined even though the time is reported as time worked in accordance with PD-91, "Work Cycles and Compensable Hours of Work."

2. Unexcused Absenteeism - One Hour or More - Violation Level 3:

Unexcused absenteeism is one hour or more of regularly scheduled work missed without authorization. An employee is required to report to work at the time scheduled unless prior arrangements are made with the appropriate supervisor.

An employee shall comply with the unit or department written notification "call in" procedures established and provided to the employee by the warden or department head. As general rules: (a) an employee who is unable to report to work as scheduled shall notify the appropriate supervisor in sufficient time to arrange for a replacement; and (b) if the employee is a shift employee who is unable to contact the appropriate supervisor, the employee should provide unit or department staff with at least two hours notice prior to the beginning of the shift.

3. Sleeping on Duty - Violation Level 2:

An employee is required to remain awake, alert, and devote full attention to the employee's assigned duty or area of responsibility during working hours.

4. Leaving a Security or Duty Post - Violation Level 2:

An employee is prohibited from leaving the assigned work area without proper authorization. A correctional employee shall not leave the assigned security post until properly relieved.

5. Reckless Endangerment - See 5a, 5b, and 5c:

For mistreatment of offenders, see Rule Number 23.

5a. Reckless Endangerment: Life Endangerment - Violation Level 1:

Committing, or threatening to commit, an act while at the workplace that endangers the life of another individual, including hazing or horseplay when the life of another individual is endangered; committing, or threatening to commit, property damage while at the workplace of a nature that endangers the lives of others.

5b. Reckless Endangerment: Endangerment Less than Life Endangerment - Violation Level 2:

Committing, or threatening to commit, any act that endangers the safety of another individual to a lesser degree than endangerment of life, including hazing or horseplay when the safety of another individual is endangered; an action that results in the security of the TDCJ being jeopardized.

5c. Reckless Endangerment: Hazing or Horseplay without Injury - Violation Level 3:

Employees are prohibited from participating in hazing or horseplay.

6. Horseplay:

Rule Number 6, which consisted of 6a, violation level 4 and 6b, violation level 3, was voided effective August 1, 2006, and incorporated in Rule Number 5.

7. Substandard Duty Performance - Violation Level 4:

An employee shall perform duties in a manner that meets or exceeds the minimum standards established for the employee's position. Job quality and productivity standards are established by position descriptions, written or verbal instructions issued relating to job standards, or expectations, TDCJ policy and procedures, and ethical and professional standards. Any act by an employee resulting in the failure to meet the minimum standards of on the job productivity or quality is prohibited.

The employee's substandard duty performance shall be clearly identified.

8. Failure to Follow Proper Safety Procedures - Violation Level 4:

An employee is required to observe and enforce current TDCJ policies and state and federal laws relating to safety in the workplace.

The specific safety procedure that was violated shall be clearly identified.

9. Gambling on State Property - Violation Level 1:

Gambling, as defined by the Tex. Penal Code, on state property or at any location where offenders are housed or work is prohibited.

10. Falsification of Records - Violation Level 2 - Does not include falsification relating to the State of Texas Application for Employment - See Rule Number 46:

An employee is required to maintain and submit truthful, accurate, and complete records as required by the TDCJ. Falsification of records includes altering documents to reflect false information or the omission of material information. By signing or submitting a document, an employee attests to the truthfulness, accuracy, and completeness of the information presented in the document.

11. Unauthorized Taking or Use of Personal Property - Violation Level 2:

An employee is prohibited from taking or using any item of personal property not belonging to the employee, unless the rightful owner gave the employee permission to take or use the item. This does not include offender property, which is a violation of Rule Number 23.

12. Unauthorized Sales or Solicitations on State Premises - Violation Level 4:

An employee is prohibited from engaging in any solicitation or fundraising activity on state property, except as provided in ED-02.04, "TDCJ Fundraising."

13. Failure to Obey a Proper Order from an Authority - Violation Level 2:

An employee shall promptly obey any proper order issued by an authority. A proper order is any verbal or written order issued directly to an employee by or through the employee's chain of supervision, not by or through a co-worker, in connection with a work-related issue that is in the best interest of the TDCJ. Proper orders include instructions posted on employee bulletin boards.

An employee shall comply with a proper order. The employee may file a grievance after complying with the order. The specific proper order that was not obeyed shall be clearly identified when charging an employee with this violation. Failure to comply with a written policy, procedure, or statutory authority is a violation of Rule Number 20.

14. Use of Offensive Words or Actions - See 14a, 14b, and 14c:

Use of words or actions that would offend a reasonable person is prohibited. A gesture, isolated remark, or comment not directed to anyone in particular may be considered a violation of this rule. An employee shall not respond in like terms to what the employee considers offensive or insulting use of words or conduct.

The specific words or actions shall be clearly identified when charging an employee with this violation.

14a. Use of Offensive Words or Actions - Violation Level 3:

When words or actions that would not violate Rule Number 14b are used as part of a verbal or physical altercation or an act of insubordination, the employee shall be disciplined in accordance with Rule Number 15 or Rule Number 36.

14b. Use of Offensive Words or Actions – Protected Class - Violation Level 2:

Use of words or actions that humiliate or show hostility or animosity toward an individual or an individual's relative, friend, or associate, because of race, color, religion, sex (gender), national origin, age (40 or above), disability, or genetic information are a violation of this rule.

A supervisor shall report conduct that may violate this rule to Employee Relations Intake, Human Resources Division, in accordance with PD-31, "Discrimination in the Workplace." A Rule Number 14b violation shall be supported by an EEO prehearing investigation conducted in accordance with PD-31, and a disciplinary hearing held by an EEO-DAO.

14c. Use of Offensive Words or Actions – Protected Class – Toward an Offender – Violation Level 2:

This violation is to be used when the prohibited use of words or actions as defined in Rule Number 14b are directed toward an offender. This charge is only applicable when no employees can be identified as witnesses. This violation does not require an EEO prehearing investigation. If the presence of an employee witness is verified during the prehearing investigation or offender grievance process, the reporting requirements of PD-31, "Discrimination in the Workplace," shall apply.

15. Verbal or Physical Confrontation or Altercation with Another Employee - See 15a and 15b:

While on duty, an employee is required to maintain a considerate, cooperative, and cordial

relationship toward fellow employees. An employee is prohibited from: (1) instigating a verbal or physical confrontation toward another employee in the workplace; or (2) participating in a verbal or physical altercation with another employee in the workplace, including inappropriately responding to another employee's instigation.

The instigating employee shall be charged if the responding employee is charged. If all of the responding employee's actions are appropriate, for example a calm response in an attempt to prevent the continuation of the instigation, only the instigating employee shall be charged.

15a. Instigating or Participating in a Verbal Confrontation or Altercation - Violation Level 3

15b. Instigating or Participating in a Physical Confrontation or Altercation - Violation Level 2

16. Negligent Operation of a TDCJ Vehicle - Violation Level 4:

An employee not possessing a valid Texas driver license is prohibited from operating a state owned vehicle, and an employee not possessing a valid Texas commercial driver license is prohibited from operating a state owned commercial motor vehicle. An employee operating such vehicles is charged with and responsible for the safe operation and prompt, accurate reporting of any accident involving the vehicle.

See PD-37, "Employee Commercial Drivers' Physical Examination and Alcohol/Drug Testing Programs" for the definition of "Commercial Motor Vehicle."

17. Reporting to Work under the Influence of Alcohol or Drugs:

Rule Number 17, which was a violation level 2, was voided effective April 1, 1998.

18. Possession or Removal of Contraband - See 18a, 18b, 18c, and 18d:

Without a specific order or authorization to do so, an employee shall not remove from TDCJ premises or the premises of a facility operated under a contract with the TDCJ any item of contraband and shall not exercise possession or control of any item of contraband while on TDCJ premises.

Contraband is a specific, tangible item: (1) not issued to an employee for the performance of the employee's duties and which the employee has not obtained a supervisor's permission to possess, other than those items which an employee is normally in possession of, such as car keys; (2) for which possession of, by an employee or an incarcerated offender, whichever is applicable, is not permitted by TDCJ policy, procedure, or practice; or (3) prohibited by law.

A violation of this rule that supports an employee and offender relationship is a violation of Rule Number 42.

18a. Possession, Delivery, or Removal of the Following: (1) Alcoholic Beverage; (2) Controlled Substance; or (3) Deadly Weapon without Authorization - Violation Level 1:

(1) Alcohol: It is a violation of this rule for an employee to have alcohol in a TDCJ facility or a facility operated under contract with the TDCJ. Alcohol found in a vehicle on CID unit property is a violation, in accordance with SM-01.10, "Operation and Parking of Vehicles on TDCJ Correctional Institutions Divisions (CID) Unit Property" and should be charged using Rule Number 20. Alcohol within a bachelor officer

quarters (BOQ) is a violation of the BOQ rules and should be charged using Rule Number 20.

(2) Controlled Substance: It is a violation of this rule to have illegal controlled substances at or in a TDCJ facility, or a facility operated under contract with the TDCJ.

(3) Deadly Weapon: A deadly weapon is a firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or serious bodily injury; or anything that in the manner of its use, or intended use, is capable of causing death or serious bodily injury. It is a violation of this rule for an employee to possess a deadly weapon in a TDCJ facility or a facility operated under contract with the TDCJ, or within a BOQ located on state property. Employees who store a firearm within a vehicle parked at one of these locations or within a residence located on state property must follow procedures in accordance with AD-02.95, "Storage of Firearms," to be exempt from this rule.

18b. Delivery of the Following to an Offender: (1) Alcoholic Beverage; (2) a Drug Other than an Authorized Controlled Substance for Medical Purposes; (3) Cell Phone, Other Wireless Communication Device(s), or a Component of One of those Devices; (4) Cigarette(s) or Other Form(s) of Tobacco; or (5) Money - Violation Level 1:

For the purpose of this rule violation, delivery includes the offender having possession of one of these items that can be directly associated with the employee. Delivery also includes, but is not limited to, the employee having possession of large amounts of one of the items, or having the items concealed in an abnormal place.

18c. Possession of any Contraband Other than Those Items Listed in Rule Number 18a - Violation Level 2

18d. Trafficking or Trading of any Contraband Other than Those Items Listed in Rule Number 18a or 18b - Violation Level 2:

Accepting or agreeing to accept such contraband from an offender, offering such contraband to an offender, or agreeing to purchase contraband for an offender is prohibited.

19. Use of Alcohol or Illicit Drugs on the Job - Violation Level 1:

Use of alcohol or illicit drugs, including the misuse of prescription drugs, while on duty is prohibited.

20. Violation of Statutory Authority, Court Order, Rules, Regulations, or Policies - Violation Level 2:

It is the employee's responsibility to know, have a clear understanding of, and comply with rules, regulations, policies, court orders, and statutory authority governing the operation of the TDCJ. Not being aware of the existence of any of the aforementioned is not a defense for violation of the same.

The specific rule, regulation, policy, or statutory authority shall be clearly identified when charging an employee with this violation.

21. Discrimination or Harassment Against Persons of a Protected Class or Retaliation - Violation Level 1:

Discrimination or harassment based on race, color, religion, sex (gender), including sexual harassment, national origin, age (40 or above), disability, or genetic information is prohibited. In addition, an employee is prohibited from retaliating against or harassing an employee or other individual who filed a charge of, participated in a proceeding regarding, or otherwise opposed an alleged EEO rule violation, or associated with the applicant, employee, or other individual who is involved in such activity. Some examples of adverse employment actions that might be construed by the TDCJ to be retaliation are identified in PD-13, "Sexual Harassment and Discourteous Conduct of a Sexual Nature" and PD-31, "Discrimination in the Workplace."

This rule violation shall be supported by an EEO prehearing investigation conducted in accordance with PD-13 or PD-31.

22. Harassing or Retaliating Against Another - Non-EEO related - See 22a and 22b:

An employee is prohibited from harassing or retaliating against another individual in any form or for any reason.

22a. Harassing or Retaliating Against Another Individual - Violation Level 2:

Includes all forms of harassment or retaliation not prohibited by Rule Number 21 or 22b.

22b. Harassing or Retaliating Against an Offender or Another Individual for Participating in an Official Investigation or Inquiry or for Pursuing Legal Activities, such as petitioning the courts - Violation Level 1

23. Mistreatment of Offenders - Violation Level 2:

Mistreatment usually takes the form of physical abuse, but it may also include, but not be limited to, such actions as threats or unauthorized or illegal denial of privileges or entitlements.

***24. Use of Excessive or Unnecessary Force - See 24a, 24b, 24c, and 24d:**

Existing policies and procedures shall govern the use of force to control a situation or to gain compliance with legal orders. Only the minimum amount of force applied in compliance with existing policies and necessary to achieve the desired results shall be employed. The use of force to intimidate, coerce, punish, or for the purpose of revenge is prohibited.

Violations of the TDCJ *Use of Force Plan* shall be charged as a Rule Number 24 or 25 violation. In addition, the Aggravated Use of Excessive Force Provision may be applicable, included herein after Rule Number 25.

***24a. Use of Excessive or Unnecessary Force - Provoked without Serious Injuries - Violation Level 3**

***24b. Use of Excessive or Unnecessary Force - Provoked with Serious Injuries - Violation Level 2**

***24c. Use of Excessive or Unnecessary Force - Non-Provoked without Serious Injuries - Violation Level 2**

24d. Use of Excessive or Unnecessary Force - Non-Provoked with Serious Injuries - Violation Level 1

***25. Failure to Completely or Accurately Report a Use of Force or Commission of a Use of Force Administrative or Procedural Violation - See 25a, 25b, 25c, 25d, 25e, 25f, 25g, and 25h:**

An employee involved in or who is a material witness to a use of force incident is required to provide a complete factual account of the employee's actions and observations of the incident as outlined in existing policies and procedures.

Violations of the TDCJ *Use of Force Plan* shall be charged as a Rule Number 24 or 25 violation. In addition, the Aggravated Use of Excessive Force Provision may be applicable, included herein after Rule Number 25.

***25a. Failure to Report: Relating to Use of Deadly, Excessive, or Unnecessary Force - Provoked without Serious Injuries - Violation Level 3**

***25b. Failure to Report: Relating to Use of Deadly, Excessive, or Unnecessary Force - Provoked with Serious Injuries - Violation Level 2**

***25c. Failure to Report: Relating to Use of Deadly, Excessive, or Unnecessary Force - Non-Provoked without Serious Injuries - Violation Level 2**

25d. Failure to Report: Relating to Use of Deadly, Excessive, or Unnecessary Force - Non-Provoked with Serious Injuries - Violation Level 1

***25e. Failure to Report: Relating to Non-Excessive and Necessary Use of Force - Violation Level 3**

***25f. Administrative or Procedural Violation of a Security Nature Relating to Use of Force - Violation Level 2:**

For example, failure to follow required security procedures, such as use of mechanical restraints when appropriate.

***25g. Administrative or Procedural Violation Relating to Use of Force - Violation Level 3:**
For example, failure to videotape a use of force incident or make an offender notification.

***25h. Technical Violation Relating to Use of Force - Violation Level 4:**

For example, failure to remove lens cap from camera, insert or rewind videotape, or keep offender participant in full view.

***Aggravated Use of Excessive Force Provision - Applies to Rule Numbers 24 and 25:**

Aggravated is defined as conduct indicating a deliberate act, without just cause or provocation, on the part of an employee who:

1. Uses excessive force;
2. Conspires with another employee who uses excessive force. Conspiracy may include, but is not limited to, the participation in or observation of the use of excessive force

or having prior knowledge of an imminent use of excessive force;

3. Participates in or witnesses a use of excessive force, knows the use of excessive force is aggravated, and fails to report the use of excessive force; or
4. Witnesses a use of excessive force, does not know the use of excessive force was aggravated at the time the incident occurs, becomes aware the excessive force was aggravated after the incident occurs, and fails to report the use of excessive force or reports the use of excessive force but covers or withholds the fact the excessive force was aggravated.

If a preponderance of evidence substantiates that:

- A violation of Rule Number 24 involved an aggravated use of excessive force, for example, force can be excessive if greater force is used than necessary, but not rise to the level of an aggravated use of excessive force; or
- A violation of Rule Number 25 involved: (a) an aggravated failure to completely or accurately report an aggravated use of excessive force; or (b) the commission of a use of force administrative or procedural violation when there was an aggravated use of excessive force,

The disciplinary action imposed shall be based on the guidelines for the next most severe range of disciplinary actions within that level. For example, if a violation of Rule Number 24 or 25 is the employee's first offense and it is determined that the violation involved an aggravated use of excessive force, the disciplinary action shall be based on the range for a second offense. The disciplinary action imposed shall include, at a minimum, probation and one or more of the following: suspension, reduction in pay, or demotion.

The reprimanding authority shall make a separate determination of the application of "aggravated" for each individual employee's conduct, as a participant or witness, as it relates to a Rule Number 24 or 25 violation.

26. Refusal to Submit to a Polygraph Examination:

Rule Number 26, which was a violation level 1, was voided effective September 1, 1997.

27. Failure to Turn in all Evidence Seized - Violation Level 3:

An employee shall preserve and submit all evidence in its original form through an established chain of custody. All confiscated property, contraband, or other such items shall be properly accounted for and secured in accordance with the appropriate division's policy.

28. Improper or Untidy Uniforms - Violation Level 4:

A uniformed employee is required to adhere to standards established by TDCJ policy regarding dress and personal appearance while in uniform. The uniform is not authorized for wear during non-working hours, except for convenience stops while traveling to and from work. An employee shall not under any circumstances wear the uniform on the employee's day off or wear only a part of the uniform, such as uniform shirt with jeans or uniform pants with casual shirt at any time. Specific prior authorization may be granted to wear the uniform for official agency representation at special ceremonies, remembrance services, or court appearances.

29. Damage, Destruction, Misappropriation, or Unauthorized Use of Equipment or Property Owned or Leased by the TDCJ - Violation Level 2:

An employee is prohibited from damaging, destroying, or: (1) taking or using any TDCJ resources, including the use of offender labor, to further the employee's private interest; (2) taking or using any item of state property for the purpose of converting it to the employee's personal use; (3) possessing any TDCJ lost or stolen property; or (4) using state equipment for any purpose other than official work purposes, except as provided in ED-02.01, "TDCJ Ethics Policy."

30. Refusal to Cooperate with an Official Inquiry or Investigation - Violation Level 2:

An employee is required to cooperate fully in any investigation conducted by an authorized official of the TDCJ or state or federal government in which TDCJ interests are involved.

Effective August 1, 2006, Rule Number 30 is no longer divided into Rule Numbers 30a and 30b, which differentiated between inquiries or investigations into a court ordered reform issue and inquiries or investigations into other work-related matters.

31. Conviction of a Felony - Violation Level 1:

An employee shall be disciplined by TDCJ officials upon conviction of a felony offense.

An employee is required to report an arrest, charge by information or complaint, or indictment for a felony offense within 48 hours of the initial event and before reporting to duty. If an employee is convicted of a felony offense, the employee is required to report the conviction to the employee's immediate supervisor no later than 48 hours from the conviction and before reporting to duty. Failure to report such information is a separate Rule Number 20 violation.

32. Destroying Evidence or Giving False Testimony or Information - Violation Level 2:

An employee is prohibited from destroying confiscated property, contraband, or other such items. In administrative processes, an employee is required to submit truthful, accurate, and complete information and documentation of events that the employee has knowledge of or has witnessed. Providing a false statement to be granted time off and filing an EEO related complaint that an employee knows is unjustified are violations of this rule.

33. Release of Confidential Information - Violation Level 2:

An employee is prohibited from releasing any confidential information regarding the TDCJ, including information relating to employees or offenders, except as permitted by TDCJ policy or state or federal law. This rule applies to disclosure to persons outside the TDCJ as well as persons within the TDCJ who do not have a right to have such information.

34. Accepting Goods, Money, Services, or Favors - See 34a and 34b:

An employee is prohibited from: (1) granting special favors to or asking for or accepting gratuities, whether in property or service, from an offender's family member or other agent of the offender; (2) committing bribery, that is, soliciting, accepting, or agreeing to accept any benefit in exchange for any exercise of official discretion; (3) accepting an honorarium from anyone; or (4) accepting any reward, or any promise of the same, from a person or company interested in any contract, purchase, or sale made by either the TDCJ or by its authority. See ED-02.01, "TDCJ Ethics Policy."

34a. Committing Bribery - Violation Level 1:

Soliciting, accepting, or agreeing to accept any benefit in exchange for any exercise of official discretion.

34b. Accepting Goods, Money, Services, Favors, or Honoraria - Violation Level 2

35. Aiding and Abetting an Escape - Violation Level 1:

An employee is prohibited from aiding or abetting an escape or an escape attempt. An employee is under a duty to report any information regarding evidence of plans to escape, escape attempts, or actual escapes.

36. Insubordination - Violation Level 3:

An employee is prohibited from showing contempt or disrespect for authority through verbal or written communication or behavior.

When charging an employee with this violation, the employee's specific action of insubordination shall be clearly identified.

37. Misconduct - Violation Level 4:

An employee is prohibited from engaging in any activity that would have an adverse impact upon the integrity or productivity of the employee or the TDCJ. This would include, but is not limited to, establishing a non-productive work pattern, exhibiting disruptive behavior in the workplace, excessive visiting, and loud boisterous behavior, and alerting other staff members when supervisor rounds are being conducted, unless otherwise instructed.

An employee may be charged with this violation only when the employee's misconduct is not chargeable under any other violation. The specific misconduct shall be clearly identified.

38. Trafficking and Trading:

Rule Number 38, which was a violation level 2, was voided effective August 1, 2006 and incorporated in Rule Number 18.

39. Conviction of a Misdemeanor:

An employee may be disciplined by TDCJ officials upon conviction of a misdemeanor offense.

An employee shall report an arrest, charge by information or complaint, indictment, or conviction of a misdemeanor offense, in accordance with PD-27, "Employee Duty Status Pending Resolution of Criminal Charges or a Protective Order." Failure to report such information is a separate Rule Number 20 violation.

A minor traffic violation is not a misdemeanor or felony criminal charge for the purpose of PD-27, "Employee Duty Status Pending Resolution of Criminal Charges or a Protective Order." An employee is not required to report a minor traffic violation to the employee's immediate supervisor or to any other TDCJ supervisor or manager. Driving while intoxicated (DWI), driving under the influence (DUI), driving while license is suspended (DWLS), failure to appear (FTA), reckless driving, open container, and assault with a motor vehicle are **not** minor traffic violations. For examples of minor traffic violations, see PD-27 attachment, "Listing of Minor Traffic Violation Examples."

A misdemeanor conviction for a drug related offense is a violation of Rule Number 40. If an employee is not dismissed through the disciplinary process for conviction of a misdemeanor offense but is unable to perform the essential functions of the employee's position as a result of the conviction, the employee shall be administratively separated from employment in accordance with PD-24, "Administrative Separation."

39a. Conviction of a Misdemeanor for an Offense Involving Domestic Violence by an Employee who is Required or Authorized to Carry a Firearm:

Rule Number 39a, which was a violation level 1, was voided effective September 1, 2014 and incorporated into PD-24, "Administrative Separation."

39b. Conviction of any Other Misdemeanor - Violation Level 3 - Except for drug related offenses - see Rule Number 40

40. Possession, Use, Sale, or Delivery of Illicit Drugs or Drug Paraphernalia - Violation Level 1:

An employee is prohibited from possessing, using, selling, or delivering illicit drugs or drug paraphernalia while on-duty or off-duty. Possession, use, sale, or delivery of the same during off-duty hours, in a private residence, or while in a state or country where it is legal is not a defense for this violation.

41. Denial of Uniform Access to Courts - Violation Level 2:

An employee is prohibited from interfering in any manner with an offender's right of access to courts or to public officials. This includes, but is not limited to, unauthorized denial of legal visits or access to legal materials, harassing or retaliating against an offender for exercising the offender's right to file a grievance or complaint, or not allowing an offender to correspond with the courts or public officials.

42. Employee-Offender Relationships - See 42a, 42b, 42c, and 42d:

An employee shall provide written notification of any relationship the employee has with an offender by submitting a PERS 282A, Additional Offender Information (Attachment M). The warden or department head shall indicate “approved, denied, or partially approved.” The original PERS 282A shall be forwarded to Employee Services for imaging into the employee’s Master Human Resources file. A copy of the PERS 282A shall be maintained in the employee’s unit or department human resources file.

An immediate family member, as defined for the purpose of Rule Number 42b, includes a spouse, child, parent, brother, or sister. Relationships with an employee of the TDCJ who is also an offender’s family member are excluded from this rule. The intent of this rule is not to prohibit relationships between employees who have offender family members, but to encourage disclosure.

42a. Cohabitation with Offender - Violation Level 1:

An employee is prohibited from knowingly cohabiting, for example, living together or sharing housing arrangements, with an offender or an offender’s family member unless the relationship has been approved or is one of the following exceptions.

Exceptions: This rule does not prohibit an employee from cohabiting with: (1) a spouse from a current marriage that existed prior to employment with the TDCJ; (2) a spouse from a current marriage who became an offender after the employee’s employment with the TDCJ; (3) one of the following by blood or current marriage: a child, daughter-in-law, son-in-law, grandchild, great grandchild, sister, brother, sister-in-law, brother-in-law, niece, nephew, mother, father, grandmother, grandfather, aunt, uncle, first degree cousin; or (4) a child or parent by adoption.

42b. Failure to Provide Notification of Offender Relationship - Violation Level 2:

An employee is required to provide written notification to the duty warden or department head immediately upon becoming aware of any one of the following:

- The employee has a present relationship or had a past relationship with a current offender that involved direct interaction with the offender. Examples of direct interaction include, but are not limited to, dating, former in-law, personal correspondence, and visits to residence;
- The employee has an immediate family member who is currently an offender;
- The employee had a past acquaintance with a current offender that involved regularly planned or scheduled indirect interaction with the offender, such as a high school classmate;
- The employee has a present or had a past relationship with a current offender’s immediate family member involving direct interaction;
- The employee’s immediate family member has a present or had a past relationship with a current offender involving direct interaction;
- Any activity prohibited by Rule Number 42 (a, b, c, or d) between another employee and an offender; or
- Any change in a previously reported offender relationship and the nature of the change,

such as an employee previously reported that an offender was an immediate family member's old boyfriend and then the immediate family member begins dating the offender again or an employee previously reported an ex-spouse is incarcerated and upon the offender's release to parole, the court grants the offender visitation rights with the employee's child.

42c. Continuation or Establishment of Offender Relationship that Jeopardizes Security or Compromises the Employee, Other than Cohabitation or Sexual Misconduct - Violation Level 2:

An employee is prohibited from continuing or establishing an unreported or unapproved relationship with an offender, or an offender's family member, if the relationship jeopardizes or has the potential to jeopardize the security of the TDCJ or compromises the effectiveness of the employee.

An unreported or unapproved relationship that would have the potential to jeopardize the security of the TDCJ or compromise the effectiveness of the employee includes, but is not limited to, a relationship that is not excluded under Rule Number 42a and involves any one of the following: (a) correspondence with an offender; (b) offender visitation; (c) non-job related visits to an offender's residence; (d) non-job related visits to the residence of an offender's family member; (e) putting money into an offender's Inmate Trust Fund (ITF) account; or (f) the introduction of contraband and granting special privileges as a result of a personal relationship with the offender, an offender's family member, or a current or previous associate of the offender.

Contact with an offender or an offender's family, to include through social media, in and of itself does not constitute a relationship. If it is determined that an employee, through such contact, has potentially jeopardized the security of the TDCJ or compromised the effectiveness of the employee, the employee shall be subject to disciplinary action.

42d. Sexual Misconduct with Offender - Violation Level 1:

An employee is prohibited from acts of sexual misconduct with: (1) any incarcerated offender; or (2) any offender under the supervision of the TDCJ who is not the employee's spouse.

Acts of sexual abuse and harassment are described in PD-29, "Sexual Misconduct with Offenders."

43. On-Duty or Off-Duty Conduct - Violation Level 1:

Any action on the part of an employee that jeopardizes the integrity or security of TDCJ institutions, calls into question the employee's ability to perform effectively and efficiently in the employee's position, or casts doubt upon the integrity of the employee is prohibited.

An employee may be charged with this violation only when the employee's conduct is not chargeable under any other violation. The employee's specific conduct shall be clearly identified.

44. Tampering with a Witness - Violation Level 1:

An employee is prohibited from attempting to hinder or influence in any manner the testimony or information to be given by any witness or potential witness in an investigation or administrative proceeding.

45. Failure to Submit to Search - Violation Level 1:

An employee is expected to cooperate with TDCJ officials during the search of the employee's person or belongings while on state property. Upon entering state property or during routine inspections, an employee gives implied consent to the search of the employee's person or property.

46. Falsification of the State of Texas Application for Employment - Violation Level 1:

An employee is required to provide complete and accurate information on the employee's State of Texas Application for Employment and supporting documents.

47. Refusal to Submit to Alcohol or Drug Tests - Violation Level 1:

An employee is required to submit to alcohol or drug tests as outlined in existing policies, procedures, and federal regulations.

48. Failure to have a Negative Alcohol or Drug Test Result or Failure to Comply with Conditions of a Treatment Agreement - Violation Level 1:

An employee who is selected for random drug testing, or who is reasonably suspected of using alcohol or drugs in the workplace, or while performing official duties while under the influence of alcohol or drugs, shall be required to submit to an alcohol and drug test and have a negative test result in accordance with PD-17, "Drug-Free Workplace" or PD-37, "Employee Commercial Drivers' Physical Examination and Alcohol/Drug Testing Programs."

An employee who signed a Treatment Agreement is required to comply with all the conditions of the agreement. If the employee signed a Treatment Agreement as a result of independent dismissal mediation and fails to comply with the conditions of the agreement, the dismissal recommendation shall be forwarded for processing in accordance with this directive. See PD-17, "Drug-Free Workplace."

49. Misuse of Official Authority or Information - Violation Level 1:

An employee is prohibited from: (1) using official authority or influence to affect political campaigns or other political activities; (2) preventing or restricting, or attempting to prevent or restrict, political donations of any kind to a person or political organization and is prohibited from coercing, or attempting to coerce, in any manner, a political contribution to a person or political organization; (3) intentionally disclosing or using non-public information acquired by virtue of TDCJ employment to achieve a financial gain or other benefit, aid another person to do the same, or to defraud another person; or (4) causing an employee to be discharged, demoted, or otherwise discriminated against for providing public information to the legislature or in response to a request from the legislature.

50. Discourteous Conduct of a Sexual Nature - Violation Level 2:

An employee is prohibited from discourteous conduct of a sexual nature. See definition for "Discourteous Conduct of a Sexual Nature." Specific examples of discourteous conduct of a sexual nature that are prohibited and may rise to the level of sexual harassment are identified in PD-13, "Sexual Harassment and Discourteous Conduct of a Sexual Nature."

This rule violation shall be supported by the findings of an EEO prehearing investigation conducted in accordance with PD-13, "Sexual Harassment and Discourteous Conduct of a Sexual Nature."

51. Failure to Report Use of Certain Prescription Drugs - Violation Level 3:

If an employee is taking a drug prescribed by the employee's attending physician and the employee believes the prescription drug's side effects may interfere with the performance of the employee's assigned duties, such as drowsiness or hallucinatory effects, the employee shall report the name of the prescribed drug, the name of the prescribing attending physician, the possible side effects, and the approximate length of time the employee anticipates taking the drug to the employee's supervisor in writing prior to the employee commencing work while taking such medication. See PD-17, "Drug-Free Workplace."

52. Failure to Provide Contact Information - Violation Level 4:

An employee is required to have current and valid contact information on file with the employee's human resources representative, to include the following: (a) the telephone number for the employee's current residence; (b) if the employee's residence does not have telephone service, the employee's cell phone number or a contact person's telephone number; (c) the employee's physical address; and (d) the employee's mailing address.

53. Failure to Report Alleged Acts of Discrimination or Harassment Against Persons of a Protected Class, Discourteous Conduct of a Sexual Nature, or Retaliation - See 53a and 53b:

TDCJ managers and supervisors are required to report to Employee Relations Intake, Human Resources Division, all allegations of the following conduct reported to or any of the following conduct witnessed by the manager or supervisor, even when another employee or other individual does not report or complain about the act:

- Discrimination or harassment based on race, color, age (40 or above), sex (gender), including sexual harassment, national origin, religion, disability, and genetic information;
- Discourteous conduct of a sexual nature; and
- Retaliation against an individual who: (1) has rejected sexual harassment or discourteous conduct of a sexual nature; (2) has filed a complaint alleging sexual harassment, discourteous conduct of a sexual nature, or other discrimination prohibited by this rule; (3) has cooperated in a TDCJ or external investigation, hearing, or court proceeding regarding an allegation of sexual harassment, discourteous conduct of a sexual nature, or other discrimination prohibited by this rule; or (4) is associated with an individual who is involved in such activity.

Managers and supervisors shall report such acts in accordance with the procedures for reporting any allegations of such conduct in PD-13, "Sexual Harassment and Discourteous Conduct of a Sexual Nature" or PD-31, "Discrimination in the Workplace." This rule violation shall be supported by an EEO prehearing investigation conducted in accordance with PD-13 or PD-31.

53a. Failure to Report an Alleged Act of Discrimination or Harassment Against Persons of a Protected Class, Discourteous Conduct of a Sexual Nature, or Retaliation; Took Corrective or Preventive Action - Violation Level 4**53b. Failure to Report an Alleged Act of Discrimination or Harassment Against Persons of a Protected Class, Discourteous Conduct of a Sexual Nature, or Retaliation; Did Not Take Corrective or Preventive Action - Violation Level 3**

Texas Department of Criminal Justice
Guidelines for Disciplinary Actions
Level One Violations

NO.	DESCRIPTION
5a.	Reckless Endangerment: Life Endangerment
9.	Gambling on State Property
18a.	Possession, Delivery or Removal of the Following: (1) Alcoholic Beverage; (2) Controlled Substance; or (3) Deadly Weapon without Authorization
18b.	Delivery of the Following to an Offender: (1) Alcoholic Beverage; (2) a Drug Other than an Authorized Controlled Substance for Medical Purposes; (3) Cell Phone, Other Wireless Communication Device(s), or a Component of One of those Devices; (4) Cigarette(s) or Other Form(s) of Tobacco; or (5) Money
19.	Use of Alcohol or Illicit Drugs on the Job
21.	Discrimination or Harassment Against Persons of a Protected Class or Retaliation
22b.	Harassing or Retaliating Against an Offender or Another Individual for Participating in an Official Investigation or Inquiry or for Pursuing Legal Activities, such as petitioning the courts
24d.	Use of Excessive or Unnecessary Force - Non-Provoked with Serious Injuries
25d.	Failure to Report: Relating to Use of Deadly, Excessive, or Unnecessary Force - Non-Provoked with Serious Injuries
31.	Conviction of a Felony
34a.	Committing Bribery
35.	Aiding and Abetting an Escape
40.	Possession, Use, Sale, or Delivery of Illicit Drugs or Drug Paraphernalia
42a.	Cohabitation with Offender
42d.	Sexual Misconduct with Offender
43.	On-Duty or Off-Duty Conduct
44.	Tampering with a Witness
45.	Failure to Submit to Search
46.	Falsification of the State of Texas Application for Employment
47.	Refusal to Submit to Alcohol or Drug Tests
48.	Failure to have a Negative Alcohol or Drug Test Result or Failure to Comply with Conditions of a Treatment Agreement
49.	Misuse of Official Authority or Information

DISCIPLINARY ACTION				
	FIRST	SECOND	THIRD	FOURTH
Dismissal	Only			
Dismissal shall be recommended for a level 1 violation. Only the executive director, deputy executive director, or the appropriate division director is authorized to impose a less severe disciplinary action. A reprimanding authority may submit a recommendation for retention of an employee who has committed a level 1 violation. The recommendation shall be attached to the PERS 186, Dismissal Recommendation and Action form for consideration by the executive director, deputy executive director, or the appropriate division director.				

**Texas Department of Criminal Justice
Guidelines for Disciplinary Actions
Level Two Violations**

NO.	DESCRIPTION
3.	Sleeping on Duty
4.	Leaving a Security or Duty Post
5b.	Reckless Endangerment: Endangerment Less than Life Endangerment
10.	Falsification of Records - Does not include falsification relating to the State of Texas Application for Employment - See Rule Number 46
11.	Unauthorized Taking or Use of Personal Property
13.	Failure to Obey a Proper Order from an Authority
14b.	Use of Offensive Words or Actions – Protected Class
14c.	Use of Offensive Words or Actions – Protected Class – Toward an Offender
15b.	Instigating or Participating in a Physical Confrontation or Altercation
18c.	Possession of any Contraband Other than Those Items Listed in Rule Number 18a
18d.	Trafficking or Trading of any Contraband Other than Those Items Listed in Rule Number 18a or 18b
20.	Violation of Statutory Authority, Court Order, Rules, Regulations, or Policies
22a.	Harassing or Retaliating Against Another Individual
23.	Mistreatment of Offenders
24b.*	Use of Excessive or Unnecessary Force - Provoked with Serious Injuries
24c.*	Use of Excessive or Unnecessary Force - Non-Provoked without Serious Injuries
25b.*	Failure to Report: Relating to a Use of Deadly, Excessive, or Unnecessary Force - Provoked with Serious Injuries
25c.*	Failure to Report: Relating to a Use of Deadly, Excessive, or Unnecessary Force - Non-Provoked without Serious Injuries
25f.*	Administrative or Procedural Violation of a Security Nature Relating to Use of Force
<p>*Aggravated Use of Excessive Force Provision - Applies to Violations of Rule Numbers 24b, 24c, 25b, 25c, and 25f: See the Aggravated Use of Excessive Force Provision on the Listing of Employee General Rules Of Conduct And Disciplinary Violations (Attachment A) to determine whether the violation of Rule Number 24b, 24c, 25b, 25c, or 25f involved an aggravated use of excessive force. If so, the disciplinary action imposed shall be based on the guidelines for the next range of severity within that level. For example, if a violation of Rule Number 24 or 25 is the employee's first offense and it is determined the violation involved an aggravated use of excessive force, the disciplinary action shall be based on the range for a second offense. The disciplinary action imposed shall include, at a minimum, probation and one or more of the following: suspension, reduction in pay, or demotion.</p>	
29.	Damage, Destruction, Misappropriation, or Unauthorized Use of Equipment or Property Owned or Leased by the TDCJ
30.	Refusal to Cooperate with an Official Inquiry or Investigation
32.	Destroying Evidence or Giving False Testimony or Information
33.	Release of Confidential Information
34b.	Accepting Goods, Money, Services, Favors, or Honoraria
41.	Denial of Uniform Access to Courts
42b.	Failure to Provide Notification of Offender Relationship
42c.	Continuation or Establishment of Offender Relationship that Jeopardizes Security or Compromises the Employee, other than cohabitation or sexual misconduct
50.	Discourteous Conduct of a Sexual Nature

RANGE OF DISCIPLINARY ACTION				
	FIRST	SECOND	THIRD	FOURTH
Probation	6 - 9 months	10 - 12 months		
Withdrawal of Pay Increase	Yes	Yes		
Suspension without Pay	1 - 20 workdays	1 - 30 workdays		
Reduction in Pay ⁽¹⁾	1 - 2 increments or at least 3.4% or 6.8%	2 - 3 increments or at least 6.8% or 10.2%		
Involuntary Demotion ⁽¹⁾ (must be to a budget authorized position)	1 - 2 salary groups	1 - 3 salary groups		
Dismissal	Yes ⁽²⁾	Yes	Only	
⁽¹⁾ Reductions in pay and involuntary demotions shall be in accordance with PD-72, "Employee Salary Administration." ⁽²⁾ Reprimanding Authorities recommending dismissal for the first violation of a level 2 offense shall submit sufficient reason and documentation justifying the recommendation.				

Texas Department of Criminal Justice Guidelines for Disciplinary Actions Level Three Violations

NO.	DESCRIPTION
2.	Unexcused Absenteeism - One Hour or More
5c.	Reckless Endangerment: Hazing or Horseplay without Injury
14a.	Use of Offensive Words or Actions
15a.	Instigating or Participating in a Verbal Confrontation or Altercation
24a.*	Use of Excessive or Unnecessary Force - Provoked without Serious Injuries
25a.*	Failure to Report: Relating to Use of Deadly, Excessive, or Unnecessary Force - Provoked without Serious Injuries
25e.*	Failure to Report: Relating to Non-Excessive and Necessary Use of Force
25g.*	Administrative or Procedural Violation Relating to Use of Force
<p>*Aggravated Use of Excessive Force Provision - Applies to Violations of Rule Numbers 24a, 25a, 25e, and 25g: See the Aggravated Use of Excessive Force Provision on the Listing of Employee General Rules of Conduct and Disciplinary Violations (Attachment A) to determine whether the violation of Rule Number 24a, 25a, 25e, or 25g involved an aggravated use of excessive force. If so, the disciplinary action imposed shall be based on the guidelines for the next range of severity within that level. For example, if a violation of Rule Number 24 or 25 is the employee's first offense and it is determined the violation involved an aggravated use of excessive force, the disciplinary action shall be based on the range for a second offense. The disciplinary action imposed shall include, at a minimum, probation and one or more of the following: suspension, reduction in pay, or demotion.</p>	
27.	Failure to Turn in all Evidence Seized
36.	Insubordination
39b.	Conviction of any Other Misdemeanor - Except for drug related offenses – See Rule Number 40. See Listing of Employee General Rules of Conduct and Disciplinary Violations (Attachment A) for "Conviction" definition.
51.	Failure to Report Use of Certain Prescription Drugs
53b.	Failure to Report an Alleged Act of Discrimination or Harassment Against Persons of a Protected Class, Discourteous Conduct of a Sexual Nature, or Retaliation; Did Not Take Corrective or Preventive Action

RANGE OF DISCIPLINARY ACTION				
	FIRST	SECOND	THIRD	FOURTH
Probation	3 - 4 months	5 - 8 months	9 - 12 months	
Withdrawal of Pay Increase	Yes	Yes	Yes	
Suspension without Pay	1 - 5 workdays	1 - 10 workdays	1 - 15 workdays	
Reduction in Pay ⁽¹⁾		1 - 2 increments or at least 3.4% or 6.8%	2 - 3 increments or at least 6.8% or 10.2%	
Involuntary Demotion ⁽¹⁾ (must be to a budget authorized position)		1 - 2 salary groups	1 - 3 salary groups	
Dismissal			Yes	Only
⁽¹⁾ Reductions in pay and involuntary demotions shall be in accordance with payroll deadlines and PD-72, "Employee Salary Administration."				

Texas Department of Criminal Justice Guidelines for Disciplinary Actions Level Four Violations

NO.	DESCRIPTION
1.	Tardiness - Less than One Hour Tardiness stands alone and may not be used to enhance any violation, except for another incident of tardiness or a violation of Rule Number 2, Unexcused Absenteeism. For example, if an individual's previous violation was for tardiness only and the subsequent violation is for unexcused absenteeism, the disciplinary action for the unexcused absenteeism shall be based on the range for a second offense. Unexcused absenteeism also enhances subsequent violations of tardiness.
7.	Substandard Duty Performance
8.	Failure to Follow Proper Safety Procedures
12.	Unauthorized Sales or Solicitations on State Premises
16.	Negligent Operation of a TDCJ Vehicle
25h.*	Technical Violation Relating to Use of Force
*Aggravated Use of Excessive Force Provision - Applies to a Violation of Rule Number 25h: See the Aggravated Use of Excessive Force Provision on the Listing of Employee General Rules Of Conduct And Disciplinary Violations (Attachment A) to determine whether the violation of Rule Number 25h involved an aggravated use of excessive force. If so, the disciplinary action imposed shall be based on the guidelines for the next range of severity within that level. For example, if a violation of Rule Number 24 or 25 is the employee's first offense and it is determined the violation involved an aggravated use of excessive force, the disciplinary action shall be based on the range for a second offense. The disciplinary action imposed shall include, at a minimum, probation and one or more of the following: suspension, reduction in pay, or demotion.	
28.	Improper or Untidy Uniforms
37.	Misconduct
52.	Failure to Provide Contact Information
53a.	Failure to Report an Alleged Act of Discrimination or Harassment Against Persons of a Protected Class, Discourteous Conduct of a Sexual Nature, or Retaliation; Took Corrective or Preventive Action

RANGE OF DISCIPLINARY ACTIONS				
	FIRST	SECOND	THIRD	FOURTH
Reprimand Only	Yes			
Probation	1 - 2 months	3 - 4 months	5 - 6 months	
Withdrawal of Pay Increase	Yes	Yes	Yes	
Suspension	1 - 3 workdays	1 - 7 workdays	1 - 10 workdays	
Reduction in Pay ⁽¹⁾		1 increment or at least 3.4%	2 increments or at least 6.8%	
Involuntary Demotion ⁽¹⁾ (must be to a budget authorized position)			1 - 3 Salary Groups	
Dismissal			Yes	Only
⁽¹⁾ Reductions in pay and involuntary demotions shall be in accordance with PD-72, "Employee Salary Administration."				

Texas Department of Criminal Justice
EMPLOYEE OFFENSE AND PREHEARING INVESTIGATION REPORT

Purpose: This form shall be used to record alleged violations of rules or regulations by employees. It shall also serve as a prehearing investigation report. If additional space is needed for any portion of this report, a continuation sheet may be attached.

I. To be completed by the Charging Official:

Employee Name: _____ **SSN:** _____
Last First MI

Payroll _____ **Dates of**
Job Title: _____ **Incidents:** _____
(mm/dd/yyyy)

Description of employee's specific conduct. Do not reference rule number or describe the rule:

The employee's conduct may be a violation of rule number: _____

Charging Official Name and Title	Signature	Date
(print)		

II. Employee's Statement: The prehearing investigator shall obtain an employee's statement even when a Use of Force (UOF) Fact Finding Inquiry, Risk Management Incident Review Board, or Office of the Inspector General (OIG) investigation has been conducted. _____

Employee's Signature: _____ **Date:** _____

Note to Employee: With few exceptions, you are entitled upon request: (1) to be informed about the information the TDCJ collects about you; and (2) under Tex. Gov't Code §§ 552.021 and 552.023, to receive and review the collected information. Under Tex. Gov't Code § 559.004 you are also entitled to request, in accordance with TDCJ procedures, that incorrect information the TDCJ has collected about you be corrected.

III. Witnesses: See attached.

IV. Prehearing Investigator's Review and Recommendation:

Employee Hearing: ☐ Yes ☐ No **If yes, alleged rule violation number(s):** _____

Comments: _____

Investigator's Name and Title (print) **Signature** **Date**

V. Reprimanding Authority's Action:

- ☐ Proceed to employee hearing. Alleged rule violation number: _____
- ☐ No employee hearing and no action taken.
- ☐ No employee hearing and other action taken, such as dispute resolution or training. Attach explanation of action taken.

Reprimanding Authority's Name and Title (print) **Signature** **Date**

Texas Department of Criminal Justice
EEO PREHEARING INVESTIGATION REPORT

Purpose: This form shall be used to record allegations by an employee of conduct that might be a violation of the TDCJ EEO policies PD-12, PD-13, PD-31, other EEO violations per PD-22, or PD-33. If additional space is needed for any portion of this report, a continuation sheet may be attached.

I. To be completed by the EEO investigator. Attach a copy of the complainant's written description of respondent's alleged specific conduct with information redacted as necessary.

EEO Case Number: _____

Complainant's Name: _____ **SSN:** _____
Last First MI

Payroll Job Title: _____ **Dates of Incidents:** _____
(mm/dd/yyyy)

II. Respondent's statement (obtained by EEO investigator):

Respondent's Name: _____ **Title:** _____
Please Print: Last First MI Payroll Job Title

Respondent's Signature: _____ **Date:** _____

Note to Employee: With few exceptions, you are entitled upon request: (1) to be informed about the information the TDCJ collects about you; and (2) under Tex. Gov't Code §§ 552.021 and 552.023, to receive and review the collected information. Under Tex. Gov't Code § 559.004, you are also entitled to request, in accordance with TDCJ procedures, that incorrect information the TDCJ has collected about you be corrected.

III. EEO Prehearing Investigative Findings: See attached.

EEO Case Number:

IV. Section Director, Employee Relations or Designee Review:

Based on the information available, the facts ☐ do ☐ do not support that a rule violation may have occurred.

Recommended violation: PD- _____ Rule(s) # _____

Comments:

Name (printed)	Signature	Date
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V. Prehearing Investigator (Manager, Employee Relations or Designee) Action: There is sufficient information for the following:

Rule violation may have occurred:

No rule violation identified:

☐ Proceed to EEO-DAO reprimanding authority for alleged EEO rule violation

☐ No Action Taken

Alleged rule violation number(s): _____

☐ Proceed to reprimanding authority for alleged rule violation that is not an EEO rule violation

☐ Other, such as dispute resolution or training.
(Attach explanation of action taken)

Alleged rule violation number(s): _____

☐ Other, such as respondent's employment separation.
(Attach explanation)

Comments:

Name (printed)	Signature	Date
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VI. Reprimanding Authority's Action:

☐ Proceed to employee hearing. Alleged rule violation number(s): _____

☐ No employee hearing and no action taken

☐ No employee hearing and other action taken, such as separation from training academy or letter of instruction.
(Attach explanation of action taken.)

Reprimanding Authority's Name and Title (printed)

Signature

Date

If this report is forwarded to a reprimanding authority for an alleged EEO rule violation or other alleged rule violation, this report serves as the prehearing investigation required by PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees." Another prehearing investigation shall not be conducted.

Texas Department of Criminal Justice
NOTIFICATION OF EMPLOYEE HEARING

OIG Number _____
MAUF Number _____
EEO Number _____

DATE: _____ EMPLOYEE NAME: _____ SSN: _____

UNIT or PAYROLL JOB TITLE:
DEPT.: _____

You are scheduled for an employee hearing to be held

☐ in person ☐ telephonically ☐ via videoconference at _____ at _____ on _____
(Location) (am/pm) (mm/dd/yyyy)

The purpose of the employee hearing is to consider allegations that you committed the following rule violation(s) as referenced in the Listing of Employee General Rules of Conduct and Disciplinary Violations.

Level: Number: Rule Title:
Level: Number: Rule Title:

Synopsis of Incident:

The hearing shall be conducted in accordance with the PERS 560, Guidelines for Employee Hearings, and a copy of these guidelines is being provided to you. These guidelines provide information relating to scheduling extensions, representatives, witnesses, and other related matters.

I ☐ do ☐ do not wish to appear at the employee hearing. I understand my failure to appear may constitute a waiver of the right to an employee hearing, and the employee hearing may be conducted in absentia.

☐ I wish to waive the 24-hour Notice of Employee Hearing. I understand the reprimanding authority or designee may reschedule the hearing to be held earlier than the date and time indicated above. If I have indicated that I wish to appear at the employee hearing, I shall be notified in writing of the rescheduled time and date prior to the hearing.

☐ I do not wish to waive the 24-hour Notice of Employee Hearing.

Today's Date: _____ If Notified in Person, Time Notified: _____ ☐ A.M. _____ ☐ P.M.

Employee Signature

Note to Employee: With few exceptions, you are entitled upon request: (1) to be informed about the information the TDCJ collects about you; and (2) under Tex. Gov't Code §§ 552.021 and 552.023, to receive and review the collected information. Under Tex. Gov't Code § 559.004 you are also entitled to request, in accordance with TDCJ procedures, that incorrect information the TDCJ has collected about you be corrected.

Notification of Rescheduled Employee Hearing:

The reprimanding authority or designee has rescheduled the hearing to be held at a different date and time than indicated above. If later, and outside the applicable scheduling time frame, attach justification.

The rescheduled hearing shall be held at: _____ at _____ on _____
(Location) (am/pm) (mm/dd/yyyy) (Employee Initials/Date & Time [am/pm])

Texas Department of Criminal Justice
GUIDELINES FOR EMPLOYEE HEARINGS

Employee Name: _____ SSN: _____
Last First MI

1. Request for an Extension: If you are on approved sick leave at the time the PERS 184, Notification of Employee Hearing was provided to you, you may make a one time request for the employee hearing date to be rescheduled within 30 calendar days. This request shall be made within 48 hours of receipt of this form, made in writing or made verbally with a written follow-up. You must state the specific reason an extension is necessary. The reprimanding authority may deny the request; however, the reprimanding authority shall provide you with a written explanation for denying the request.
2. Hearings may be conducted in person, telephonically, or through video conference, in accordance with location constraints. An employee participating in a telephonic hearing shall do so at a TDCJ office.
3. Presenting Your Defense and Use of a Representative: During the employee hearing, you may elect to speak for yourself or be represented at the employee hearing by a designee of your choice, as long as your representative: (1) does not claim the right to strike; and (2) is not an individual under the supervision or custody of the TDCJ. The designation of a representative does not prohibit you from: (1) attending or having input into the employee hearing; or (2) responding to questions from the reprimanding authority or designee, or your designated representative.
 - a. An employee hearing is administrative in nature and is not subject to common law or statutory rules of evidence. Objections at the employee hearing by you or your representative shall be limited to TDCJ policy and procedural issues that pertain to the employee hearing.
 - b. At the beginning of the employee hearing, you must specify whether your representative is the party responsible for presenting your defense. Both you and your representative may provide information to the reprimanding authority for consideration. However, only one person may be designated as the party responsible for presenting your defense, and only one person may speak at a time. Regardless of the party responsible for presenting your defense, you and your representative shall be allowed to have quiet conversations regarding information that may be provided to the reprimanding authority.
4. Witnesses on Your Behalf: You may elect to have witnesses with first hand knowledge of the events under review provide testimony on your behalf. The TDCJ is under no obligation to interview or consider testimony from character witnesses or witnesses with "hearsay" information. Prior to the hearing, it is your responsibility to: (1) obtain statements from witnesses for presentation at the employee hearing; (2) provide any written questions for witnesses to the reprimanding authority; or (3) arrange for witnesses to be available to present testimony during the hearing at the reprimanding authority's discretion. If you provide written questions, the reprimanding authority or designee is not required to ask these questions. If the reprimanding authority elects to ask the witnesses these questions, this may occur prior to or after the employee hearing. If witnesses are available to appear in person at the employee hearing, the reprimanding authority has the discretion to determine whether the witnesses are questioned. Witnesses who are available to appear on the employee's behalf shall be available at no expense to the TDCJ other than the recording of such time as time worked.
5. Witnesses Appearing on Behalf of the Reprimanding Authority: At the reprimanding authority's discretion, you may be allowed to ask questions of a person(s) who appears at the employee hearing as a witness(es) against you.
6. Conduct by Participants: All parties, including your representative, shall conduct themselves in a professional manner and afford the persons present due respect. Only one reminder of the conduct expected at the employee hearing may be issued. The offending party may be required to leave the proceedings if conduct that is contradictory to these guidelines continues. If you or your representative leaves during the proceedings, the employee hearing may be conducted and concluded in your or your representative's absence.
7. Recording of an Employee Hearing: Audio taping, video taping, or verbatim written recording of an employee hearing is not permitted. Note taking is permissible.
8. *Americans with Disabilities Act* (ADA) Accommodation: You may notify the TDCJ accommodation coordinator, Employee Relations, Human Resources Division, if you require an accommodation.

9. Time Reporting and Expenses:
- a. Your attendance at the employee hearing or attendance by an employee acting as a witness shall be considered official business, and you and any employee acting as a witness shall be released by the supervisor on paid time during working hours. You and any employee acting as a witness are required to provide sufficient advance notice to the supervisor to ensure adequate staffing.
 - b. There is no authority for the TDCJ to pay compensation to or reimburse the expenses of a representative, whether the representative is a state employee or an individual from outside state service. Appearance as a representative at an employee hearing shall not be considered official business. If an employee acting as a representative attends an employee hearing held during working hours, that employee must obtain prior approval to use accrued leave or, if accrued leave is not available, leave without pay to attend the employee hearing.
10. Copies of Investigative Files: At the time of this notification, you were provided a copy of the applicable prehearing investigation report along with support documentation that is subject to disclosure and being used as evidence. In order to obtain copies of evidence that is not subject to disclosure, such as confidential portions of OIG and EEO reports, you must request the documents in writing through a public information request. The request shall be processed in accordance with the rules governing a public information request, and the requested documents may not be available before the employee hearing.
11. Dismissal Recommended: If the employee hearing results in a dismissal recommendation, you shall have the opportunity to request independent dismissal mediation in accordance with PD-35, "Independent Dismissal Mediation and Dispute Resolution."
12. Grievance: You may submit a grievance in accordance with PD-30, "Employee Grievance Procedures" relating to disciplinary action after it has been imposed.

Employee Signature

(mm/dd/yyyy)

Texas Department of Criminal Justice
REPRIMAND FORM

OIG Number: _____ EEO Number: _____
MAUF Number: _____
SSN: _____

Employee Name: _____
Last First MI

Payroll Job Title: _____

Unit or Dept: _____

Date of Violation(s): _____

Date Prehearing Investigation Completed: _____

VIOLATION(S): _____ FINDINGS (check one): GUILTY

Level: _____ Number: _____ Rule Title: _____ ☐ Yes ☐ No

Level: _____ Number: _____ Rule Title: _____ ☐ Yes ☐ No

Synopsis of Incident(s):

DISCIPLINARY ACTION:

Is this a subsequent violation(s)? ☐ Yes ☐ No If yes, list applicable previous rule number violation(s) and disciplinary date(s):

Check and complete one or more of the following:

☐ NO DISCIPLINE IMPOSED (Provide justification at bottom of page if guilty findings.)

☐ REPRIMAND ONLY

☐ DISCIPLINARY PROBATION: _____ Calendar Months Beginning: _____ Ending: _____

☐ SUSPENSION WITHOUT PAY: _____ Workdays Beginning: _____ Return: _____

☐ REDUCTION IN PAY: \$ _____ Beginning: _____ Ending: _____

Method used: ☐ _____ % ☐ Step (number of steps) ☐ Minimum established rate

☐ DEMOTION TO (Title and Salary Group) _____ Beginning: _____ Ending: _____

☐ DISMISSAL RECOMMENDED

DISCIPLINE IS: ☐ Within ☐ Above ☐ Below the guidelines. Provide justification at bottom of page if above or below.

For violations of Rule Number 24 or 25, check one of the following: This violation ☐ did ☐ did not involve an aggravated use of excessive force.

JUSTIFICATION (If applicable): _____

Reprimanding Authority Name and Title (printed) _____ Signature _____ Date _____

Employee's Acknowledgment: I have been advised of the procedures of progressive disciplinary actions, and my right to file a grievance. I acknowledge receipt of a copy of this reprimand and know the original is to be placed in my Master Human Resources File. If recommended for dismissal, I verify the following are my current address and phone number:

Mailing Address: _____

Phone Number, Including Area Code: _____

Employee Signature: _____ Date: _____

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Original: Employee Relations, HRHQ (with copy of support documentation)

Copy: Employee

Copy: Unit or Department Employee Disciplinary File

Texas Department of Criminal Justice
DISMISSAL RECOMMENDATION AND ACTION

Employee Name: _____ SSN: _____
Last First MI

PLEASE CONSIDER THE ATTACHED REPRIMAND AND DISMISSAL RECOMMENDATION FOR THE ABOVE EMPLOYEE.

FROM: _____
Printed Name of Reprimanding Authority Signature and Date

THRU: OFFICE OF THE GENERAL COUNSEL (OGC) _____ DATE RECEIVED

OGC COMMENTS ARE ATTORNEY-CLIENT PRIVILEGE AND ARE NOT SUBJECT TO DISCLOSURE. OGC SHALL PROVIDE COMMENTS ON A CONFIDENTIAL MEMORANDUM.

Printed Name Signature and Date

THRU: HUMAN RESOURCES DIRECTOR: _____ DATE RECEIVED _____ CONCUR _____ NON-CONCUR
(COMMENTS):

Printed Name Signature and Date

THRU: APPROPRIATE AGENCY OFFICIAL: _____ DATE RECEIVED _____ CONCUR _____ NON-CONCUR
(COMMENTS):

Printed Name Signature and Date

THRU: DEPUTY DIRECTOR REVIEW: _____ DATE RECEIVED _____ CONCUR _____ NON-CONCUR
(COMMENTS):

Printed Name Signature and Date

THRU: EXECUTIVE, DEPUTY EXECUTIVE, APPROPRIATE DIVISION DIRECTOR, OR EEO-DAO ACTION

_____ DATE RECEIVED

_____ DISMISSAL APPROVED

_____ IN LIEU OF DISMISSAL, THE FOLLOWING DISCIPLINARY ACTION IS IMPOSED:

_____ DISAPPROVED. NO DISCIPLINARY ACTION SHALL BE IMPOSED

Printed Name Signature and Date

TO: DISCIPLINARY SPECIALIST, EMPLOYEE RELATIONS, HUMAN RESOURCES DIVISION (COORDINATE DISTRIBUTION)

NOTICE TO EMPLOYEE: YOU ARE HEREBY ADVISED THAT YOU MAY APPEAL THIS ACTION IN ACCORDANCE WITH PD-30, "EMPLOYEE GRIEVANCE PROCEDURES."

Texas Department of Criminal Justice
REHIRE REVIEW REQUIRED

EMPLOYEE NAME: _____ SSN: _____
Last First MI
Effective Separation Date: _____ Payroll Separation Reason Code: _____
(mm/dd/yyyy)

The above named former Texas Department of Criminal Justice employee (check one of the following):

- ☐ Separated during an investigation
- ☐ Office of the Inspector General (OIG) investigation
 - ☐ Equal Employment Opportunity (EEO) investigation
 - ☐ Use of Force (UOF) investigation
 - ☐ City, County, State, or Federal investigation – Criminal Charges Pending
 - ☐ Unit or Department investigation
- Alleged rule violation number(s): _____
- ☐ Separated in lieu of disciplinary action. Employee was given a Notification of Hearing (PERS 184), but the hearing was not held due to separation.

Additional Information

- ☐ Investigation initiated after the employee separated and disclosed information that should be considered if the employee applies for re-employment with the TDCJ.

Provide a brief synopsis of the allegation and note any supporting information: _____

This employee shall not be considered for rehire unless approved by the executive director, deputy executive director, appropriate division director, or designee.

_____ (Printed Name and Title of Person Initiating Form)	_____ (Signature of Person Initiating Form)	Date Initiated: _____ (mm/dd/yyyy)
_____ (Printed Name and Title of Approving Official)	_____ (Signature of Approving Official)	Date Approved: _____ (mm/dd/yyyy)

Distribution Upon Approval:

Original – Employee Relations, Disciplinary Specialist, Human Resources Division (for processing and forwarding to employee's Master Human Resources File)

Copy - Originating Unit or Department Human Resources Representative (for mailing to employee and placement in employee's unit or department disciplinary file along with support documentation)

If Applicable, Copy To: OIG Case File Number: _____
 EEO Case File Number: _____

☐ FOSTER YOUTH
☐ VETERAN'S PREFERENCE

Texas Department of Criminal Justice
ADDITIONAL OFFENDER INFORMATION

APPLICANT ☐
EMPLOYEE ☐
For H.R. Use Only
IE ☐
HRHQ ☐

Applicant or Employee Name: _____

Social Security Number: _____

Applicants: In your application for employment with the Texas Department of Criminal Justice, you reported a relationship with a current or former TDCJ offender, incarcerated or on parole. As a criminal justice agency, we need additional information from you concerning this relationship. This information may affect your eligibility for employment or the unit or department to which you are assigned. Please provide the following information regarding the relationship you reported. Complete a separate form for each relationship.

Employees: Please provide the following information regarding any relationship you develop or become aware of, report any subsequent development of a relationship with a current or former TDCJ offender, incarcerated or on parole, to your warden, department head or supervisor using this form. Complete a separate form for each relationship. In the course of your job duties, should you come in contact with this offender's record, you must notify your supervisor immediately.

Offender Information

Offender's Name: _____ TDCJ Number: _____ Date of Birth: _____

Check and comment on applicable offender status and relationship information.

Offender Status	Relationship
<input type="checkbox"/> Currently incarcerated in TDCJ, indicate unit: _____	<input type="checkbox"/> Relative (other than spouse): How is this offender related to you? _____
<input type="checkbox"/> Currently on parole, indicate city of residence: _____	<input type="checkbox"/> Spouse
<input type="checkbox"/> In county jail waiting for transfer to TDCJ, indicate county: _____	<input type="checkbox"/> Legally married, date: _____
<input type="checkbox"/> Former TDCJ offender (no longer on parole). Indicate previous unit, if known: _____	<input type="checkbox"/> Married by proxy, date: _____
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Had child(ren) together, date: _____
	<input type="checkbox"/> Informal marriage, date: _____
	<input type="checkbox"/> Lived together, date: _____
	<input type="checkbox"/> If divorced, date: _____
	<input type="checkbox"/> Specify any other: _____

Contact Information

- Are you on this offender's visitation list? Yes ☐ No ☐ Unknown ☐ Not Applicable ☐
- Have you visited this offender? Yes ☐ No ☐ If yes, how often? _____ Last visit? _____
- Do you visit or correspond with or have any other contact with this offender? Yes ☐ No ☐ If yes, please explain: _____
- When did you first meet this offender? Month _____ Day _____ Year _____
- How did you first meet this offender? _____

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Tex. Penal Code § 39.04 states that an employee of the TDCJ commits a felony offense if the employee engages in sexual contact, sexual intercourse, or deviant sexual intercourse with an individual who the employee knows is in custody or under the supervision of the TDCJ, except as provided for by the affirmative defense in Tex. Penal Code § 39.04(h).

Applicant or Employee Signature		Date (MM/DD/YY)	
Applicant or Employee: Do not write in this section.		Administrative Approval	
Applicant:	Approved for Hire with no change <input type="checkbox"/>	Approved for Hire if contact is severed <input type="checkbox"/>	Not Approved for Hire <input type="checkbox"/>
Deputy Director, Prison and Jail Operations or Designee			Date (MM/DD/YY)
Employee:	Approval <input type="checkbox"/>	Denial <input type="checkbox"/>	Other <input type="checkbox"/>
Warden or Department Head			Date (MM/DD/YY)
Conditions:			